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THIS SUPPLEMENT CONTAINS

Statutes:

All laws specifically codified by the General Assembly of the State of Georgia through the 2014 Regular Session of the General Assembly.

Annotations of Judicial Decisions:

Case annotations reflecting decisions posted to LexisNexis® through March 21, 2014. These annotations will appear in the following traditional reporter sources: Georgia Reports; Georgia Appeals Reports; Southeastern Reporter; Supreme Court Reporter; Federal Reporter; Federal Supplement; Federal Rules Decisions; Lawyers' Edition; United States Reports; and Bankruptcy Reporter.

Annotations of Attorney General Opinions:

Constructions of the Official Code of Georgia Annotated, prior Codes of Georgia, Georgia Laws, the Constitution of Georgia, and the Constitution of the United States by the Attorney General of the State of Georgia posted to LexisNexis® through March 21, 2014.

Other Annotations:

References to:

Emory Bankruptcy Developments Journal.
Emory International Law Review.
Emory Law Journal.
Georgia Journal of International and Comparative Law.
Georgia Law Review.
Georgia State University Law Review.
John Marshall Law Review.
Mercer Law Review.
Georgia State Bar Journal.
Georgia Journal of Intellectual Property Law.
American Jurisprudence, Second Edition.
American Jurisprudence, Pleading and Practice.
American Jurisprudence, Proof of Facts.
American Jurisprudence, Trials.
Corpus Juris Secundum.
Uniform Laws Annotated.
American Law Reports, First through Sixth Series.
American Law Reports, Federal.

Tables:

In Volume 41, a Table Eleven-A comparing provisions of the 1976 Constitution of Georgia to the 1983 Constitution of Georgia and a Table Eleven-B comparing provisions of the 1983 Constitution of Georgia to the 1976 Constitution of Georgia.

An updated version of Table Fifteen which reflects legislation through the 2014 Regular Session of the General Assembly.

Indices:

A cumulative replacement index to laws codified in the 2014 supplement pamphlets and in the bound volumes of the Code.

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TITLE 20

EDUCATION

Chap.

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2. Elementary and Secondary Education, 20-2-1 through 20-2-2180.
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Law reviews. — For article, “Education: Education’s Elusive Future, Storied Past, and the Fundamental Inequities Between,” see 46 Ga. L. Rev. 557 (2012). For

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CHAPTER 1A

EARLY CARE AND LEARNING

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Article 3
Child Care Council

ARTICLE 1
GENERAL PROVISIONS

20-1A-2. Definitions.

As used in this chapter, the term:

- (1) “Board” means the Board of Early Care and Learning.
- (2) “Child care learning center” means any place operated by a person, society, agency, corporation, institution, or group wherein are received for pay for group care for less than 24 hours per day, without transfer of legal custody, 19 or more children under 18 years of age; provided, however, that this term shall not include a private school which provides kindergarten through grade 12 education, meets the requirements of Code Section 20-2-690, and is accredited by one or more of the entities listed in subparagraph (A) of paragraph (6) of Code Section 20-3-519 and which provides care before, after, or both before and after the customary school day to its students as an auxiliary service to such students during the regular school year only.
- (3) “Commissioner” means the commissioner of early care and learning.
- (4) “Department” means the Department of Early Care and Learning.
- (5) “Early care and education programs” include all family day-care homes, group day-care homes, and child care learning centers, regardless of whether such homes or centers offer education.
- (6) “Early childhood” means the period of childhood from birth to age six.

(7) “Family day-care home” means a private residence operated by any person who receives therein for pay for supervision and care fewer than 24 hours per day, without transfer of legal custody, at least three but not more than six children under 13 years of age who are not related to such person and whose parents or guardians are not residents in the same private residence; provided, however, that the total number of unrelated children cared for in such home, for pay and not for pay, may not exceed six children under 13 years of age at one time.

(8) “Group day-care home” means any place operated by any person or group wherein are received for pay not less than seven nor more than 18 children under 18 years of age for care and supervision for less than 24 hours per day. (Code 1981, § 20-1A-2, enacted by Ga. L. 1996, p. 167, § 2; Ga. L. 2004, p. 645, § 1; Ga. L. 2008, p. 798, § 1/HB 1169; Ga. L. 2013, p. 135, § 1/HB 354.)

The 2013 amendment, effective July 1, 2013, substituted the present provisions of paragraph (2) for the former provisions, which read: “‘Child care learning center’ means a day-care center that participates in Georgia’s Pre-K Program.”; substituted “early care and learning” for “the Department of Early Care and Learning” in paragraph (3); deleted former paragraph (4), which read: “‘Day-care center’ means any place operated by a person, society, agency, corporation, institution, or group wherein are received for pay for group care for less than 24 hours per day, without transfer of legal custody, 19 or more children under 18 years of age; provided, however, that this term shall not include a private school which provides kindergarten through grade 12 education,

meets the requirements of Code Section 20-2-690, and is accredited by one or more of the entities listed in subparagraph (A) of paragraph (6) of Code Section 20-3-519 and which provides care before, after, or both before and after the customary school day to its students as an auxiliary service to such students during the regular school year only.”; redesignated former paragraphs (5) through (9) as present paragraphs (4) through (8), respectively; in paragraph (5), deleted “day-care centers,” following “day-care homes,” and added “, regardless of whether such homes or centers offer education” at the end; and, in paragraph (7), substituted “13 years” for “18 years” near the middle and added the proviso at the end.

20-1A-3. Commissioner; board; duties and powers; salary; personnel; rules and regulations.

(a) There is created a Board of Early Care and Learning and a commissioner of early care and learning.

(b) The board shall consist of one member from each congressional district appointed by the Governor. In as far as it is practical, the members of the board shall be representative of all areas and functions encompassed within the early childhood care and education community. In appointing members to their initial terms, the Governor shall designate five members for two-year terms, four members for three-year terms, and four members for five-year terms. Subsequent appointments shall be for five-year terms. Members shall serve until

their successors are appointed. In the event of a vacancy on the board for any reason other than expiration of a term, the Governor shall appoint a person from the same congressional district to fill the vacancy for the unexpired term.

(c) The board shall elect from its members a chairperson and such other officers as the board considers necessary. The board shall adopt bylaws for the conduct of its activities. The members of the board shall receive per diem and expense reimbursement as shall be determined and approved by the Office of Planning and Budget in conformity with rates and allowances determined for members of other state boards.

(d) The board shall determine policies and promulgate rules and regulations for the operation of the department including:

(1) Functions formerly performed by the Office of School Readiness, including, but not limited to, Even Start;

(2) Functions transferred to the department from the Department of Human Resources (now known as the Department of Human Services) relating to day-care centers (now known as child care learning centers), group day-care homes, family day-care homes, and other functions as agreed upon by the department and the Department of Human Resources (now known as the Department of Human Services) in accordance with Code Section 20-1A-8;

(3) Functions transferred to the department from the Georgia Child Care Council pursuant to Code Section 20-1A-63; and

(4) Functions relating to early childhood education programs transferred from the Department of Education by agreement in accordance with Code Section 20-1A-17.

(e) The board shall oversee the budget of the department and shall submit an annual request for funding to the Office of Planning and Budget in accordance with Code Section 45-12-78.

(f) The commissioner shall be the chief administrative and executive officer of the department. The commissioner shall be appointed by and serve at the pleasure of the Governor. The commissioner shall be in the unclassified service as defined by Code Section 45-20-2 and shall receive a salary to be determined by the Governor.

(g) The commissioner shall have the authority to employ all personnel of the department, subject to the provisions of this chapter, all applicable provisions of other laws governing public employment, and the policies, procedures, rules, and regulations of the board. (Code 1981, § 20-1A-3, enacted by Ga. L. 1996, p. 167, § 2; Ga. L. 2004, p. 645, § 1; Ga. L. 2009, p. 453, § 2-9/HB 228; Ga. L. 2009, p. 745, § 1/SB 97; Ga. L. 2012, p. 446, § 2-21/HB 642; Ga. L. 2013, p. 135, § 2/HB 354.)

The 2013 amendment, effective July 1, 2013, inserted “(now known as child care learning centers)” in paragraph (d)(2).

20-1A-4. Powers and duties.

The Department of Early Care and Learning shall have the following powers and duties:

(1) To administer such programs and services as may be necessary for the operation and management of voluntary pre-kindergarten, which shall be known as “Georgia’s Pre-K Program”;

(2) To administer such programs and services as may be necessary for the operation and management of preschool and child development programs, such as Even Start and child care regulation and food programs;

(3) To act as the agent of the federal government in conformity with this chapter and the administration of any federal funds granted to the state to aid in the furtherance of any functions of the department;

(4) To assist local units of administration in this state so as to assure the proliferation of services under this chapter;

(5) To regulate early care and education programs in accordance with this chapter;

(6) To perform the functions set out in Code Section 20-1A-64, relating to improvement of the quality, availability, and affordability of child care in this state;

(7) To serve as the Head Start state collaboration office;

(8) To establish and collect annual fees for licensure, registration, or commission of early care and education programs. Such fees so established shall be reasonable and shall be determined in such a manner that the total amount of fees established shall help defray the direct and indirect costs to the department in performing such function. The department shall remit all fees collected to the general fund of the state;

(9) To recommend in writing to the owner of any early care and learning program licensed by the department that such program carry liability insurance coverage sufficient to protect its clients. Any such program which after receiving such recommendation is not covered by liability insurance shall post that fact in a conspicuous place in the program and shall notify the parent or guardian of each child under the care of the program in writing. Such notice shall be in at least 1/2 inch letters. Each such parent or guardian must acknowledge receipt of such notice in writing and a copy of such acknowledg-

ment shall be maintained on file at the program at all times while the child attends the program and for 12 months after the child's last date of attendance. Failure to do so may subject the owner of the program to a civil fine of \$1,000.00 for each such infraction;

(10) To administer any programs assigned to it administratively by the Governor pursuant to his or her powers or any programs for which the Governor designates the department as the lead agency in the state for a federal program;

(11) To perform any other functions as agreed upon between the department and the Department of Human Resources (now known as the Department of Human Services), pursuant to Code Section 20-1A-8;

(12) To perform any other functions as agreed upon between the department and the Department of Education, in accordance with Code Section 20-1A-17; and

(13) To exercise the powers reasonably necessary to accomplish the purposes of this chapter, including, but not limited to, contracting for services. (Code 1981, § 20-1A-4, enacted by Ga. L. 1996, p. 167, § 2; Ga. L. 2002, p. 1083, § 1; Ga. L. 2004, p. 645, § 1; Ga. L. 2009, p. 453, § 2-10/HB 228; Ga. L. 2010, p. 9, § 1-45/HB 1055; Ga. L. 2013, p. 135, § 3/HB 354.)

The 2013 amendment, effective July 1, 2013, added paragraphs (9) and (10) through (11) as present paragraphs (11) through (13), respectively, and redesignated former paragraphs (9)

20-1A-9. Authority to license and regulate child care learning centers, group day-care homes, and family day-care homes transferred to department.

The department shall succeed to all rights and responsibilities relating to licensure and regulation of day-care centers (now known as child care learning centers), group day-care homes, and family day-care homes, including such rules, regulations, policies, procedures, and pending and finalized administrative orders of the Department of Human Resources (now known as the Department of Human Services), the Georgia Child Care Council, and the Office of State Administrative Hearings, where applicable, which are in effect on September 30, 2004, and which relate to the functions transferred to the department pursuant to Code Section 20-1A-8. Such rights, responsibilities, licenses issued pursuant to previous law, procedures, and orders shall remain in effect until amended, repealed, superseded, or nullified by the commissioner. Such rules, regulations, and policies shall remain in effect until amended, repealed, superseded, or nullified by the board.

(Code 1981, § 20-1A-9, enacted by Ga. L. 2004, p. 645, § 1; Ga. L. 2009, p. 453, § 2-12/HB 228; Ga. L. 2013, p. 135, § 4/HB 354.)

The 2013 amendment, effective July 1, 2013, inserted “(now known as child care learning centers)” near the middle of the first sentence.

20-1A-10. Regulation of early care and education programs; “licensed child care learning center” defined.

(a) The department is authorized and empowered to establish, maintain, extend, and improve throughout the state, within the limits of funds appropriated for such purposes, the regulation of early care and education programs by providing consultation and making recommendations concerning establishment and implementation of such programs and by licensing and inspecting periodically all such programs to ensure their adherence to this chapter and rules and regulations promulgated by the board.

(b) Child care learning centers operated as part of a local church ministry or a nonprofit religious school or a nonprofit religious charitable organization may notify the department annually and be commissioned in lieu of being licensed upon request for commission. Commissioned child care learning centers shall operate in accordance with the same procedures, standards, rules, and regulations which are established by the board for the operation of licensed child care learning centers. Any child care learning center operated as part of a local church ministry or a nonprofit religious school or a nonprofit religious charitable organization may elect to apply for a commission as provided for in subsection (c) of this Code section.

(c) All early care and education programs shall be licensed or commissioned annually by the department in accordance with procedures, standards, rules, and regulations to be established by the board; provided, however, that the department may require persons who operate family day-care homes to register with the department.

(d) The department shall publish in print or electronically and make available to early care and education programs and interested persons a list of guidelines for quality child care.

(e) After an early care and education program has been licensed, commissioned, or registered by the department as provided in this chapter, the program shall not be required to have a permit to operate a food service establishment as required in Code Section 26-2-371, provided that rules and regulations for food service have been incorporated in the regulations for licensing, commissioning, or registering such programs.

(f) The department shall not be authorized to prescribe, question, or regulate the specific content of educational curriculum taught by an

early care and education program, except to the extent that a program operates Georgia’s Pre-K Program or any other voluntary educational program administered by the department.

(g) Persons who operate early care and education programs shall be required to post in a conspicuous place next to telephones in the home or center the telephone numbers of the nearest or applicable providers of emergency medical, police, and fire services.

(h) Persons who operate early care and education programs shall post signs prohibiting smoking to carry out the purposes of Chapter 12A of Title 31.

(i) Group day-care homes and child care learning centers shall provide a minimum of 35 square feet of usable space consisting of indoor play areas, rest areas, and dining facilities for each child present in the facility. Child care learning centers will be allowed to designate in writing to the department two one-hour periods daily during which 25 square feet of usable space per child for children aged three years and older may be provided. Notwithstanding the limitation to 18 children prescribed in Code Section 20-1A-2, group day-care homes will be allowed to designate in writing to the department two one-hour periods daily during which 25 square feet of usable space per child for children aged three years and older may be provided. Notwithstanding the limitation to six children prescribed in Code Section 20-1A-2, a family day-care home operator may care for two additional children aged three years and older for two designated one-hour periods daily. Notwithstanding the provisions of this subsection, all other applicable rules and regulations shall apply.

(j) The department shall assist applicants, licensees, registrants, or persons holding commissions in meeting rules and regulations of the department for early care and education programs.

(k)(1) Application for a license, commission, or registration for an early care and education program shall be made to the department upon forms furnished by the department. Upon receipt of an application for a license, registration, or commission and upon presentation by the applicant of evidence that the early care and education program meets the rules and regulations prescribed by the department, the department shall issue such early care and education program a license, registration, or commission for a one-year period.

(2) On and after May 12, 2010, the following annual fees shall apply to applications for licensure, registration, or commission as a child care learning center, group day-care home, or family day-care home:

- (A) Capacity of fewer than 25 children \$50.00

- (B) Capacity of 26 to 50 children 100.00
- (C) Capacity of 51 to 100 children 150.00
- (D) Capacity of 101 to 200 children 200.00
- (E) Capacity of more than 200 children 250.00

(l) If the department finds that any early care and education program applicant does not meet rules and regulations prescribed by the department but is attempting to meet such rules and regulations, the department may, in its discretion, issue a temporary license, registration, or commission to such early care and education program, but such temporary license, registration, or commission shall not be issued for more than a one-year period. Upon presentation of satisfactory evidence that such program is making progress toward meeting prescribed rules and regulations of the department, the department may, in its discretion, reissue such temporary license, registration, or commission for one additional period not to exceed one year. As an alternative to a temporary license, registration, or commission, the department, in its discretion, may issue a restricted license, registration, or commission which states the restrictions on its face.

(m) The department shall refuse to issue a license, registration, or commission upon a showing of:

- (1) Noncompliance with the rules and regulations for family day-care homes, group day-care homes, or child care learning centers which are designated in writing to the facilities as being related to children’s health and safety;
- (2) Flagrant and continued operation of an unlicensed, unregistered, or uncommissioned facility in contravention of the law;
- (3) Prior license, registration, or commission denial or revocation within one year of application; or
- (4) Failure to pay the annual fee for licensure, registration, or commission of early care and education programs.

(n) All licensed, registered, or commissioned early care and education programs shall prominently display the license, registration, or commission issued to such program by the department at some point near the entrance of the premises of such program that is open to view by the public.

(o) The department’s action revoking or refusing to renew or issue a license, registration, or commission required by this Code section shall be preceded by notice and opportunity for a hearing and shall constitute a contested case within the meaning of Chapter 13 of Title 50, the “Georgia Administrative Procedure Act,” except that only 30 days’

notice in writing from the commissioner's designee shall be required prior to license, registration, or commission revocation and except that hearings held relating to such action by the department may be closed to the public if the hearing officer determines that an open hearing would be detrimental to the physical or mental health of any child who will testify at that hearing.

(p) It shall be the duty of the department to inspect at regular intervals all licensed, registered, or commissioned early care and education programs within the state. The department shall have right of entrance, privilege of inspection, and right of access to all children under the care and control of the licensee, registrant, or commissionee.

(q) If any flagrant abuses, derelictions, or deficiencies are made known to the department or its duly authorized agents during their inspection of any early care and education program or if, at any time, such are reported to the department, the department shall immediately investigate such matters and take such action as conditions may require.

(r) If abuses, derelictions, or deficiencies are found in the operation and management of any early care and education program, including failure to pay the annual fee for licensure, registration, or commission, they shall be brought immediately to the attention of the management of such program; and if correctable, but not corrected within a reasonable time, the department shall revoke the license, registration, or commission of such program in the manner prescribed in this Code section.

(s) The department may require periodic reports from early care and education programs in such forms and at such times as the department may prescribe.

(t) Any person who shall operate an early care and education program without a license, registration, or commission issued by the department shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$50.00 nor more than \$200.00 for each such offense. Each day of operation without a license, registration, or commission shall constitute a separate offense.

(u) The department may, without regard to the availability of other remedies, including administrative remedies, seek an injunction against the continued operation of an early care and education program without a license, registration, or commission or the continued operation of an early care and education program in willful violation of this chapter or of any regulation of the department or of any order of the department.

(v) The term “licensed child care learning center” shall include a commissioned child care learning center and any references in this Code to a licensed child care learning center, including criminal, administrative, and civil provisions applicable to licensed child care learning centers, shall include and apply to commissioned child care learning centers unless otherwise provided in this Code section. (Code 1981, § 20-1A-10, enacted by Ga. L. 2004, p. 645, § 1; Ga. L. 2010, p. 9, § 1-46/HB 1055; Ga. L. 2010, p. 838, § 10/SB 388; Ga. L. 2013, p. 135, § 5/HB 354.)

The 2013 amendment, effective July 1, 2013, in subsection (b), substituted “Child” for “Day-care centers and child” at the beginning of the first sentence, deleted “day-care centers and” preceding “child” twice in the second sentence, and deleted “day-care center or” following “Any” in the third sentence; in subsection (i), deleted “, day-care centers,” following “day-care homes” in the first sentence, substituted “Child” for “Day-care centers and child” at the beginning of the second sentence; in

paragraph (k)(2), deleted “day-care center,” following “commission as a”; in paragraph (m)(1), deleted “day-care centers,” preceding “family day-care”; and, in subsection (v), twice substituted “child care learning center” for “day-care center”, deleted “commissioned day-care center and” preceding “commissioned child” and substituted “child care learning centers” for “day-care centers” near the middle, and deleted “commissioned day-care centers and” following “apply to” near the end.

20-1A-10.1. Determination of payments and eligibility.

A determination by the department regarding payments and eligibility pursuant to any federal program or grant shall be preceded by notice and opportunity for a hearing and shall constitute a contested case within the meaning of Chapter 13 of Title 50, the “Georgia Administrative Procedure Act.” (Code 1981, § 20-1A-10.1, enacted by Ga. L. 2013, p. 135, § 6/HB 354.)

Effective date. — This Code section became effective July 1, 2013.

ARTICLE 2

BACKGROUND CHECKS

20-1A-30. Definitions.

As used in this article, the term:

(1) “Center” means a group day-care home, family day-care home, or child care learning center which is allowed to operate or is required to be licensed, commissioned, or registered under Article 1 of this chapter.

(2) “Conviction” means a finding or verdict of guilty or a plea of guilty regardless of whether an appeal of the conviction has been sought.

(3) "Crime" means:

- (A) Any felony;
- (B) A violation of Code Section 16-5-23 when the victim is a minor;
- (C) A violation of Code Section 16-5-23.1 when the victim is a minor;
- (D) A violation of Code Section 16-12-1;
- (E) A violation of Chapter 6 of Title 16;
- (F) A violation of Code Section 16-4-1; or
- (G) Any other offenses committed in another jurisdiction which, if committed in this state, would be one of the enumerated crimes listed in this paragraph.

(4) "Criminal record" means:

- (A) Conviction of a crime;
- (B) Arrest, charge, and sentencing for a crime where:
 - (i) A plea of nolo contendere was entered to the charge;
 - (ii) First offender treatment without adjudication of guilt pursuant to the charge was granted; provided, however, that this division shall not apply to a violation of Chapter 13 of Title 16, relating to controlled substances, or any other offense committed in another jurisdiction which, if it were committed in this state, would be a violation of Chapter 13 of Title 16 if such violation or offense constituted only simple possession; or
 - (iii) Adjudication or sentence was otherwise withheld or not entered on the charge; provided, however, that this division shall not apply to a violation of Chapter 13 of Title 16, relating to controlled substances, or any other offense committed in another jurisdiction which, if it were committed in this state, would be a violation of Chapter 13 of Title 16 if such violation or offense constituted only simple possession; or
- (C) Arrest and being charged for a crime if the charge is pending, unless the time for prosecuting such crime has expired pursuant to Chapter 3 of Title 17.

(5) "Director" means the on-site manager of a facility designated by the legal owner who is responsible for the supervision, operation, and maintenance of the center and meets the minimum qualifications as determined by the department.

(6) "Employee" means any person, other than a director, who is 17 years of age or older and is employed by a center to perform at any of the center's facilities any duties which involve personal contact between that person and any child being cared for at the facility and also includes any adult person who resides at the facility or who, with or without compensation, performs duties for the center which involve personal contact between that person and any child being cared for by the center.

(7) "Employment history" means a record of where a person has worked for the past ten years.

(8) "Facility" means a center's real property at which children are received for care.

(9) "Fingerprint" means an inked fingerprint card or an electronic image of a person's fingerprint.

(10) "Fingerprint records check determination" means a satisfactory or unsatisfactory determination by the department based upon fingerprint-based national criminal history record information.

(11) "GCIC" means the Georgia Crime Information Center established under Article 2 of Chapter 3 of Title 35.

(12) "GCIC information" means criminal history record information, as defined in Code Section 35-3-30.

(13) "License" means the document issued by the department to authorize the center to which it is issued to operate a facility.

(14) "Preliminary records check determination" means a satisfactory or unsatisfactory determination by the director based only upon a comparison of GCIC information obtained solely from a law enforcement agency within the state with other than fingerprint information regarding the person upon whom the records check is being performed for purposes of this article.

(15) "Provisional employee" means an individual other than a director whose duties involve personal contact between that person and any child being cared for at the facility and who is hired for a limited period of employment.

(16) "Records check application" means a document created by the department to be completed, notarized, and submitted to the department by every actual and potential director and employee that indicates such director's name, center type, and such other information as the department deems appropriate and which authorizes the department to receive and render a fingerprint records check determination pursuant to any criminal history record information per-

taining to such individual from any local, state, or national criminal justice or law enforcement agency.

(17) “Satisfactory determination” means a written declaration that a person for whom a preliminary or fingerprint records check determination was performed was found to have no criminal record.

(18) “Unsatisfactory determination” means a written declaration that a person for whom a preliminary or fingerprint records check determination was performed was found to have a criminal record. (Code 1981, § 20-1A-30, enacted by Ga. L. 2004, p. 645, § 1; Ga. L. 2013, p. 135, § 7/HB 354; Ga. L. 2013, p. 285, § 2/HB 350; Ga. L. 2013, p. 294, § 4-31/HB 242; Ga. L. 2014, p. 866, § 20/SB 340.)

The 2013 amendments. — The first 2013 amendment, effective July 1, 2013, in paragraph (1), deleted “day-care center,” preceding “group day-care” and inserted “, commissioned,” near the end. The second 2013 amendment, effective July 1, 2013, for the purposes of promulgating rules and regulations, and January 1, 2014, for all other purposes, rewrote this Code section. The third 2013 amendment, effective January 1, 2014, in paragraph (3), deleted “, relating to simple battery,” following “Code Section 16-5-23”, deleted “, relating to contributing to the delinquency of a minor” following “Code Section 16-12-1”, deleted “, relating to sexual offenses” following “Title 16”, and deleted “, relating to criminal attempt” following “Code Section 16-4-1”. See the Code Commission note regarding the effect of these amendments. See editor’s note for applicability.

The 2014 amendment, effective April 29, 2014, part of an Act to revise, modernize, and correct the Code, deleted “, relating to battery,” preceding “when the victim” in subparagraph (3)(C).

Code Commission notes. — Pursuant

to Code Section 28-9-3, in 2013, the amendment to paragraph (3) of this Code section by Ga. L. 2013, p. 285/HB 350, § 2, was treated as impliedly repealed and superseded by Ga. L. 2013, p. 294/HB 242, § 4-31, due to irreconcilable conflict. See *County of Butts v. Strahan*, 151 Ga. 417 (1921); *Keener v. McDougall*, 232 Ga. 273 (1974), and Ga. L. 2013, p. 141, § 54(d)/HB 79.

Editor’s notes. — Ga. L. 2013, p. 294, § 5-1/HB 242, not codified by the General Assembly, provides that: “This Act shall become effective on January 1, 2014, and shall apply to all offenses which occur and juvenile proceedings commenced on and after such date. Any offense occurring before January 1, 2014, shall be governed by the statute in effect at the time of such offense and shall be considered a prior adjudication for the purpose of imposing a disposition that provides for a different penalty for subsequent adjudications, of whatever class, pursuant to this Act. The enactment of this Act shall not affect any prosecutions for acts occurring before January 1, 2014, and shall not act as an abatement of any such prosecutions.”

20-1A-31. Separate licensing and directors for facilities.

Editor’s notes. — Ga. L. 2013, p. 285, § 2/HB 350, effective July 1, 2013, for the purposes of promulgating rules and regulations, and January 1, 2014, for all other

purposes, reenacted this Code section without change. Refer to bound volume for text of this Code section.

20-1A-32. Facility license applicants; records check requirements.

Effective January 1, 2014, accompanying any application for a new license for a facility, the applicant shall furnish to the department a records check application for the director and each employee. In lieu of such records check applications, the license applicant may submit evidence, satisfactory to the department, that within the immediately preceding 12 months the director or employee received a satisfactory fingerprint records check determination, or that any director or employee whose fingerprint records check revealed a criminal record of any kind has either subsequently received a satisfactory fingerprint records check determination or has had the unsatisfactory determination reversed in accordance with Code Section 20-1A-43. Either the department or the appropriate law enforcement agencies may charge reasonable and additional processing fees for performing fingerprint records checks as required by statute, regulation, or policy or by GCIC. (Code 1981, § 20-1A-32, enacted by Ga. L. 2004, p. 645, § 1; Ga. L. 2013, p. 285, § 2/HB 350.)

The 2013 amendment, effective July 1, 2013, for the purposes of promulgating rules and regulations, and January 1, 2014, for all other purposes, rewrote this Code section.

20-1A-33. Notification to applicant on records check.

After being furnished the required records check application under Code Section 20-1A-32, the department shall notify the license applicant and the fingerprint records check applicant in writing whether the department's determination as to a director or employee is satisfactory or unsatisfactory. If the fingerprint records check determination was satisfactory as to the director and each employee of a license applicant's facility, that applicant may be issued a license for that facility if the applicant otherwise qualifies for a license under Article 1 of this chapter. If the fingerprint records check for a director or any employee revealed a criminal record, such director or employee shall not be allowed to work in the center while any child is present until he or she either has obtained a satisfactory fingerprint records check determination or has had the unsatisfactory determination reversed in accordance with Code Section 20-1A-43. The department shall revoke the license of a center if the center fails to comply with the requirements of this Code section. (Code 1981, § 20-1A-33, enacted by Ga. L. 2004, p. 645, § 1; Ga. L. 2013, p. 285, § 2/HB 350.)

The 2013 amendment, effective July 1, 2013, for the purposes of promulgating rules and regulations, and January 1, 2014, for all other purposes, rewrote this Code section.

20-1A-34. Check of fingerprints on national level; satisfactory determination prior to employment; additional records checks.

(a) The department shall transmit to GCIC both sets of fingerprints and the records search fee from each fingerprint records check application. Upon receipt thereof, GCIC shall promptly transmit one set of fingerprints to the Federal Bureau of Investigation for a search of bureau records and an appropriate report and shall retain the other set and promptly conduct a search of its records and records to which it has access. Within ten days after receiving fingerprints acceptable to GCIC, the application, and fee, GCIC shall notify the department in writing of any derogatory finding, including but not limited to any criminal record, of the state fingerprint records check or if there is no such finding. After a search of Federal Bureau of Investigation records and fingerprints and upon receipt of the bureau's report, the department shall make a national fingerprint records check determination.

(b) Every potential employee of the department who may have any reason to be present at a center while any child is present for care must receive a satisfactory fingerprint records check determination or have had an unsatisfactory fingerprint records check determination reversed in accordance with Code Section 20-1A-43 prior to employment. Every current employee of the department who may have any reason to be present at a center while any child is present for care must receive a satisfactory fingerprint records check determination or have had an unsatisfactory fingerprint records check determination reversed in accordance with Code Section 20-1A-43 by January 1, 2014. Every employee of the department shall undergo additional fingerprint records checks such that the time between such additional fingerprint records checks and that employee's previous fingerprint records check shall not exceed five years. The department shall maintain documentation in the appropriate personnel file indicating that such person has obtained such current satisfactory fingerprint records check determination or has had an unsatisfactory fingerprint records check determination reversed in accordance with Code Section 20-1A-43. (Code 1981, § 20-1A-34, enacted by Ga. L. 2004, p. 645, § 1; Ga. L. 2013, p. 285, § 2/HB 350.)

The 2013 amendment, effective July 1, 2013, for the purposes of promulgating rules and regulations, and January 1, 2014, for all other purposes, designated the existing provisions of this Code section as subsection (a); in subsection (a), inserted "check" near the end of the last sentence; and added subsection (b).

20-1A-35. Provisional employees; records check requirements.

Where there is need for a provisional employee to work at a center’s facility, such center may utilize an individual as a provisional employee only after the director reviews a preliminary records check and makes a satisfactory determination in accordance with this article. No such provisional employee shall be present in the facility while any child is present for care until such satisfactory preliminary records check determination has been made based upon GCIC information obtained from local law enforcement within the prior ten days. The board shall be authorized to define and enforce by regulations, including, but not limited to, the length of time a provisional employee may be present at a facility without a fingerprint records check determination. The department may revoke the license of a center if the center fails to comply with the requirements of this Code section and employs a person with an unsatisfactory preliminary records check determination. (Code 1981, § 20-1A-35, enacted by Ga. L. 2004, p. 645, § 1; Ga. L. 2013, p. 285, § 2/HB 350.)

The 2013 amendment, effective July 1, 2013, for the purposes of promulgating rules and regulations, and January 1, 2014, for all other purposes, rewrote this Code section.

20-1A-36. Certain offenders prohibited as employees of facilities.

Editor’s notes. — Ga. L. 2013, p. 285, § 2/HB 350, effective July 1, 2013, for the purposes of promulgating rules and regulations, and January 1, 2014, for all other purposes, reenacted this Code section without change. Refer to bound volume for text of this Code section.

20-1A-37. Individuals residing in family day-care home; records check requirements.

Notwithstanding any other provision of this article, an individual who resides in a family day-care home, as defined by Code Section 20-1A-2, shall be required to provide a fingerprint records check application to the department. If the fingerprint records check determination is unsatisfactory, the department shall notify the provider and the employee of such determination in writing and no such employee shall be allowed to reside at the day-care home or be present at the day-care home when any child is present for care until he or she either has obtained a satisfactory fingerprint records check determination or has had the unsatisfactory determination reversed in accordance with Code Section 20-1A-43. (Code 1981, § 20-1A-37, enacted by Ga. L. 2004, p. 645, § 1; Ga. L. 2013, p. 285, § 2/HB 350.)

The 2013 amendment, effective July 1, 2013, for the purposes of promulgating rules and regulations, and January 1, 2014, for all other purposes, rewrote this Code section.

20-1A-38. Change of directors; records check requirements.

(a) If the director of a facility ceases to be the director of that facility, the licensee shall thereupon designate a new director. After such change, the licensee of that facility shall notify the department in writing of such change and of any additional information the department may require regarding the newly designated director of that facility, including a fingerprint records check application. If the department determines that such newly designated director has had a satisfactory fingerprint records check determination or an unsatisfactory determination reversed pursuant to Code Section 20-1A-43 within the prior 12 months, such determination shall be deemed to be satisfactory for purposes of this article. The license of that facility shall not be adversely affected by that change in director, and the licensee shall be so notified.

(b) If the department determines under subsection (a) of this Code section that there has ever been an unsatisfactory preliminary or state or national fingerprint records check determination of the newly designated director which has not been legally reversed, the center and that director shall be so notified. The license for that director's facility shall be indefinitely suspended or revoked unless the unsatisfactory determination as to that director is reversed in accordance with Code Section 20-1A-43 or the center designates another director pursuant to the provisions of this Code section relating to a change of director.

(c) If the department determines under subsection (a) of this Code section that there have been no satisfactory or legally reversed fingerprint records check determinations regarding the newly designated director within the immediately preceding 12 months, the department shall so notify the center. Upon such notification, the newly designated director shall follow the procedures for new directors as outlined in Code Section 20-1A-39, or the license of that facility shall be indefinitely suspended or revoked. (Code 1981, § 20-1A-38, enacted by Ga. L. 2004, p. 645, § 1; Ga. L. 2013, p. 285, § 2/HB 350.)

The 2013 amendment, effective July 1, 2013, for the purposes of promulgating rules and regulations, and January 1, 2014, for all other purposes, rewrote subsections (a) and (c); and substituted "unless the unsatisfactory determination as to that director is reversed in accordance with Code Section 20-1A-43 or the center

designates another director" for "unless the center designates another director for whom it has not received or made an unsatisfactory preliminary or state or national fingerprint records check determination and proceeds" in the last sentence of subsection (b).

20-1A-39. Potential employees; current employees and directors; records check requirements; satisfactory records check; liability for hiring ineligible employee.

(a) Before a person may become an employee of any center after that center has received a license, that center shall require that person to obtain a satisfactory fingerprint records check determination. The potential employee may submit evidence, satisfactory to the department, that within the immediately preceding 12 months the employee received a satisfactory fingerprint records check determination, or that any employee whose fingerprint records check revealed a criminal record of any kind has either subsequently received a satisfactory fingerprint records check determination or has had the unsatisfactory determination reversed in accordance with Code Section 20-1A-43. The center shall maintain documentation in the employee's personnel file, which is available to the department upon request, which reflects that a satisfactory fingerprint records check determination was received before the employee begins working with children. If the fingerprint records check determination for any potential employee reveals a criminal record of any kind, such potential employee shall not be allowed to begin working until such potential employee has either obtained a satisfactory fingerprint records check determination or has had the unsatisfactory fingerprint records check determination reversed in accordance with Code Section 20-1A-43. If the fingerprint records check determination is unsatisfactory, the center shall, after receiving notification of such unsatisfactory determination, take such steps as are necessary so that such person is no longer an employee.

(b) By no later than January 1, 2017, every current employee and director of any center shall obtain either a satisfactory fingerprint records check determination or shall have had an unsatisfactory fingerprint records check determination reversed in accordance with Code Section 20-1A-43. The center shall maintain such documentation in the appropriate personnel file, which is available to the department immediately upon request. If the fingerprint records check determination is unsatisfactory, the center shall, after receiving notification of the determination, take such steps as are necessary so that such person is no longer an employee or director. The department shall revoke the license of a center if the center fails to comply with the requirements of this Code section.

(c) Effective January 1, 2019, every employee and director of any center shall undergo additional fingerprint records checks such that the time between such additional fingerprint records checks and that employee's or director's previous fingerprint records check shall not exceed five years. The center shall maintain documentation in the appropriate personnel file, which is available to the department imme-

diately upon request, indicating that such person has obtained such current satisfactory fingerprint records check determination or has had an unsatisfactory fingerprint records check determination reversed in accordance with Code Section 20-1A-43. The department shall revoke the license of a center if the center fails to comply with the requirements of this Code section.

(d) A license shall be subject to suspension or revocation and the department may refuse to issue a license if a director or employee does not undergo the fingerprint records check determination applicable to that director or employee and receive acceptable determinations.

(e) After the issuance of a license, the department may require additional fingerprint records check determinations on any director or employee when the department has reason to believe the director or employee has a criminal record that renders the director or employee ineligible to have contact with children in the center, or during the course of a child abuse investigation involving the director or employee.

(f) No center may hire any person as an employee unless there is on file in the center an employment history and a satisfactory fingerprint records check determination or proof that an unsatisfactory determination has been reversed in accordance with Code Section 20-1A-43.

(g) A licensee or director of a facility having an employee whom such licensee or director knows or should reasonably know to have a criminal record that renders the employee ineligible to have contact with children in the center shall be guilty of a misdemeanor. (Code 1981, § 20-1A-39, enacted by Ga. L. 2004, p. 645, § 1; Ga. L. 2013, p. 285, § 2/HB 350.)

The 2013 amendment, effective July 1, 2013, for the purposes of promulgating rules and regulations, and January 1, 2014, for all other purposes, rewrote subsection (a); added subsections (b) and (c); redesignated former subsections (b) through (e) as present subsections (d) through (g), respectively; in subsection (d), substituted “license shall be” for “license is” near the beginning, and substituted “undergo the fingerprint records check determination” for “undergo the records and fingerprint checks” near the middle, and substituted “acceptable” for “satisfactory” near the end; in subsection (e), substituted “require additional fingerprint” for “require a fingerprint”, inserted

“determinations”, deleted “to confirm identification for records search purposes,” following “director or employee”, and inserted “director or” near the middle; in subsection (f), substituted “fingerprint records check determination” for “preliminary records check or, if the preliminary records check determination revealed a criminal record of any kind as to such person, either satisfactory state and satisfactory national records check determinations for that person”; and, in subsection (g), inserted “licensee or” near the beginning, and substituted “such licensee or director” for “that director” near the middle.

20-1A-40. Cooperation with GCIC and other law enforcement agencies; fees; penalty for misuse of information.

(a) GCIC and law enforcement agencies which have access to GCIC information shall cooperate with the department in performing preliminary and fingerprint records check determinations required under this article and shall provide such information so required for such records checks notwithstanding any other law to the contrary and may charge reasonable fees therefor.

(b) Any person who knowingly and under false pretenses requests, obtains, or attempts to obtain GCIC information otherwise authorized to be obtained pursuant to this article, or who knowingly communicates or attempts to communicate such information obtained pursuant to this article to any person or entity except in accordance with this article, or who knowingly uses or attempts to use such information obtained pursuant to this article for any purpose other than as authorized by this article shall be fined not more than \$5,000.00, imprisoned for not more than two years, or both. (Code 1981, § 20-1A-40, enacted by Ga. L. 2004, p. 645, § 1; Ga. L. 2013, p. 285, § 2/HB 350.)

The 2013 amendment, effective July 1, 2013, for the purposes of promulgating rules and regulations, and January 1, 2014, for all other purposes, substituted

“fingerprint records check determinations” for “fingerprint records checks” in the middle of subsection (a).

20-1A-41. Liability for information or determinations made based upon records check.

Editor’s notes. — Ga. L. 2013, p. 285, § 2/HB 350, effective July 1, 2013, for the purposes of promulgating rules and regulations, and January 1, 2014, for all other

purposes, reenacted this Code section without change. Refer to bound volume for text of this Code section.

20-1A-42. Construction with Article 1.

Editor’s notes. — Ga. L. 2013, p. 285, § 2/HB 350, effective July 1, 2013, for the purposes of promulgating rules and regulations, and January 1, 2014, for all other

purposes, reenacted this Code section without change. Refer to bound volume for text of this Code section.

20-1A-43. Contested case procedure following rejection or other suspension of license or application.

A determination by the department regarding preliminary or fingerprint records checks under this article, or any action by the department revoking, suspending, or refusing to grant or renew a license based upon such determination, shall constitute a contested case for purposes of Chapter 13 of Title 50, the “Georgia Administrative Procedure Act,”

except that any hearing required to be held pursuant thereto may be held reasonably expeditiously after such determination or action by the department. It is expressly provided that upon motion from any party, the hearing officer may, in his or her discretion, consider matters in mitigation of any conviction, provided that the hearing officer examines the circumstances of the case and makes an independent finding that no physical harm was done to a victim and also examines the character and employment history since the conviction and determines that there is no propensity for cruel behavior or behavior involving moral turpitude on the part of the person making a motion for an exception to sanctions normally imposed. If the hearing officer deems a hearing to be appropriate, he or she shall also notify at least 30 days prior to such hearing the office of the prosecuting attorney who initiated the prosecution of the case in question in order to allow such prosecutor to object to a possible determination that the conviction would not be a bar for the grant or continuation of a license or employment as contemplated within this chapter. If objections are made, the hearing officer shall take such objections into consideration in considering the case. (Code 1981, § 20-1A-43, enacted by Ga. L. 2004, p. 645, § 1; Ga. L. 2013, p. 285, § 2/HB 350.)

The 2013 amendment, effective July 1, 2013, for the purposes of promulgating rules and regulations, and January 1, 2014, for all other purposes, substituted “he or she shall” for “he or she will” and

substituted “allow such prosecutor” for “allow the prosecutor” in the third sentence; and substituted “officer shall” for “officer will” in the last sentence.

20-1A-44. Regulatory authority.

Editor’s notes. — Ga. L. 2013, p. 285, § 2/HB 350, effective July 1, 2013, for the purposes of promulgating rules and regulations, and January 1, 2014, for all other

purposes, reenacted this Code section without change. Refer to bound volume for text of this Code section.

ARTICLE 3

CHILD CARE COUNCIL

20-1A-61. Child Care Council — Members; length of terms; appointments; removal of members.

(a) There is created the Georgia Child Care Council which shall consist of 20 members. Fourteen of those members shall be voting members appointed by the Governor and confirmed by the Senate, and two shall be voting members appointed as provided in paragraph (11) of this subsection. The 16 voting members shall be appointed as follows:

- (1) Two members shall be representatives of local or state chambers of commerce;

(2) One member shall be a representative of the licensed or commissioned for profit child care businesses in the state;

(3) One member shall be a representative of the licensed or commissioned not for profit child care businesses in the state;

(4) One member shall be a representative from a public Pre-K provider;

(5) Four members shall be consumers of child care services or persons whose children are regularly placed in child care but who have no other business connection with any child care facility or business and at least one of them shall represent the interests of children with special needs and one shall represent the interests of school age children;

(6) One member shall represent registered family day-care homes;

(7) One member shall represent licensed or commissioned church or synagogue child care learning centers;

(8) One member shall be an expert or have special academic or research responsibilities in early childhood development;

(9) One member shall represent a child care resource and referral agency;

(10) One member shall represent a Head Start organization; and

(11) Two members shall represent the general public and shall be appointed by the President of the Senate and the Speaker of the House of Representatives.

At the expiration of the original three-year terms of office of members of the council, successors to such members shall be appointed as follows: seven of the members appointed by the Governor shall serve for initial terms of one year and seven of such Governor appointed members shall serve for initial terms of three years; thereafter all members appointed by the Governor shall serve for terms of three years. Successors to those members appointed by the Speaker of the House of Representatives and the President of the Senate shall each serve for terms of three years. The remaining four nonvoting members shall be the State School Superintendent, the Commissioner of Labor, the commissioner of human services, and the commissioner of economic development, or the designee of the State School Superintendent, the Commissioner of Labor, the commissioner of human services, and the commissioner of economic development, all of whom shall be ex officio members.

(b) The ex officio members of the council shall serve while holding their state offices.

(c) Vacancies in the office of any appointive member of the council shall be filled for the remainder of the unexpired term by appointment

by the Governor in the same manner as the appointment to the position on the council which becomes vacant, and the appointment shall be submitted to the Senate for confirmation at the next regular session of the General Assembly.

(d) The Governor may remove any appointive member of the council for failure to attend meetings, neglect of duty, or incompetence.

(e) Any appointive member of the council who, during such person’s term of office, ceases to meet the qualifications for the original appointment or does not attend three or more successive meetings of the council shall forfeit such person’s membership on the council.

(f) Each member of the council shall take an oath of office before the Governor that he or she will faithfully perform the duties of office. (Code 1981, § 49-5-241, enacted by Ga. L. 1991, p. 1648, § 1; Ga. L. 1993, p. 1063, § 1; Ga. L. 1994, p. 97, § 49; Code Section 20-1A-61, as redesignated by Ga. L. 2004, p. 645, §§ 2, 3; Ga. L. 2004, p. 690, § 23; Ga. L. 2005, p. 60, § 20/HB 95; Ga. L. 2009, p. 453, § 2-4/HB 228; Ga. L. 2013, p. 285, § 8/HB 354.)

The 2013 amendment, effective July 1, 2013, substituted “child care learning centers” for “day-care centers” in paragraph (a)(7).

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ARTICLE 1

STATE BOARD OF EDUCATION

20-2-14. Acceptance of donations, grants, and federal aid for vocational or other educational purposes; matching funds; authorization to make transfers.

(a) The State Board of Education is authorized to receive, accept, hold, and operate, on behalf of the state, donations, grants, gifts, devises, and bequests of real, personal, and mixed property of every kind and character; to lease, manage, and otherwise administer such property for the use, benefit, and behalf of the public school system of Georgia; and to accept on behalf of the state any funds which may be now or hereafter provided for, or be, or hereafter become available or allotted to the state by virtue of any appropriation by Congress or under any governmental regulation, order, or declaration of policy for either vocational or other educational purposes conducted either in or out of school, in connection with, or as an incident of, any program of vocational education now or hereafter established as essential to national defense either for industrial or agricultural occupations, and whether as part of a federal or a state program or a combination of both, in furtherance of vocational educational objectives generally. The state board is authorized to acquire and hold title for and on behalf of the state for the benefit of the public school system thereof any equipment or supplies, both permanent and expendable, that may be necessary for such purposes; to act as the contracting agent therefor and the custodian thereof; to delegate, in whole or in part, any function or activity enumerated or contemplated under this Code section; to contract with and cooperate with any department, agency, or instrumentality, either of the state or of the United States in any manner which shall be requisite or incident to this Code section and which in the judgment of the state board may be deemed proper for the carrying into effect of the purposes of this article; and to use so much of the public school fund or other funds appropriated by the General Assembly as may be necessary to match any such federal aid or to meet the terms of any past, present, or future grant to the state or any local school unit whereby the state or any local school unit, respectively, may be enabled to derive full advantage of the benefits thereof to the state as contemplated under the terms and provisions of any such grant for educational purposes.

(b) The State Board of Education is authorized to transfer any donation, gift, devise, or bequest of real, personal, or mixed property of any kind and character held in trust by the state board to the Georgia Foundation for Public Education to be managed and otherwise administered by such foundation. This subsection shall apply to any donation, gift, devise, or bequest of real, personal, or mixed property of any kind and character held in trust by the state board pursuant to Paragraph I(c), Section II, Article VIII of the Georgia Constitution, subsection (a) of this Code section, or Code Section 20-2-18. (Ga. L. 1937, p. 864, § 4; Ga. L. 1941, p. 568, § 1; Ga. L. 2013, p. 769, § 1/ HB 116.)

The 2013 amendment, effective July 1, 2013, designated the existing provisions of this Code section as subsection (a), and added subsection (b).

20-2-14.1. Georgia Foundation for Public Education; authorization to accept transfers of certain property held in trust by State Board of Education.

(a) There is established the Georgia Foundation for Public Education existing as a public corporation and instrumentality of the state, exclusively limited to the following charitable and public purposes and powers:

- (1) To solicit and accept contributions of money and in-kind contributions of services and property for the purpose of supporting educational excellence in Georgia;
- (2) To solicit and accept contributions of money and in-kind contributions of services and property for the purpose of supporting educational excellence at Georgia Academy for the Blind, Georgia School for the Deaf, and Atlanta Area School for the Deaf;
- (3) To accept transfer of any donation, gift, devise, or bequest of real, personal, or mixed property of any kind and character held in trust by the State Board of Education to manage and otherwise administer. This paragraph shall apply to any donation, gift, devise, or bequest of real, personal, or mixed property of any kind and character held in trust by the state board pursuant to Paragraph I(c), Section II, Article VIII of the Georgia Constitution, subsection (a) of Code Section 20-2-14, or Code Section 20-2-18;
- (4) To sell and dispose of contributed property and securities in accordance with the prudent person rule;
- (5) To make and disburse contributions to the department and others for such purposes;
- (6) To contract and be contracted with for purposes of the foundation; and

(7) To seek recognition of tax exempt status by the United States Internal Revenue Service and to seek confirmation concerning the deductibility of contributions.

(b) The Georgia Foundation for Public Education shall be attached to the department for administrative purposes. The Attorney General shall be the attorney for the foundation. The State School Superintendent may solicit and accept contributions from the foundation. The department may cooperate and contract with the foundation for their mutual benefit and authorize others to do so. Upon any dissolution of the foundation, its assets shall devolve in trust to the State Board of Education or its successor for use only for the benefit of the department and the schools listed in paragraph (2) of subsection (a) of this Code section.

(c) The creation of the foundation and the execution of its corporate purposes shall be in all respects for the benefit of the people of this state and constitute a public and charitable purpose. Further, the foundation performs an essential governmental function in the exercise of the powers conferred upon it by this Code section. Accordingly, the foundation shall not be subject to taxation or assessment in any manner, including without limitation taxation or assessment upon any transaction, income, money, or other property or activity. The exemptions granted by this Code section shall not be extended to any private person or entity.

(d)(1) The foundation shall be governed by a board of directors composed of between five and 15 members as determined by the State School Superintendent. Members of the board of directors shall be appointed by either the State School Superintendent or the State Board of Education. For every three board members appointed by the State School Superintendent, the State Board of Education may appoint two board members. At least two members of the board of directors appointed by the State Board of Education shall represent the interests of students who are blind or deaf. The chairperson of the Budget and Finance Committee of the State Board of Education, or such committee's successor, shall be an ex officio member of the foundation board of directors. The foundation board of directors shall draft and adopt governance bylaws, subject to approval by the State School Superintendent.

(2) The foundation shall have complete discretion to invest any and all assets as it sees fit in accordance with the prudent person rule, and at no time shall the assets of the foundation be considered assets of the state.

(3) The foundation shall not be subject to state purchasing laws, as contained in Article 3 of Chapter 5 of Title 50 or in other provisions of

this Code, or required to dispose of property in accordance with Article 4 of Chapter 5 of Title 50.

(4) The foundation shall be authorized to purchase insurance as provided by Code Section 50-5-16.

(5) The foundation shall have the authority to roll over any unused funds into the next fiscal year.

(e) The foundation’s operations shall not be subject to Article 1 of Chapter 13 of Title 50, the “Georgia Administrative Procedure Act.”

(f) The foundation shall be deemed to be a charitable organization for purposes of voluntary contributions from state employees pursuant to Article 3 of Chapter 20 of Title 45. (Code 1981, § 20-2-14.1, enacted by Ga. L. 2010, p. 411, § 1/SB 427; Ga. L. 2013, p. 769, § 2/HB 116.)

The 2013 amendment, effective July 1, 2013, added paragraph (a)(3); and re-designated former paragraphs (a)(3) through (a)(6) as present paragraphs (a)(4) through (a)(7), respectively.

ARTICLE 3
LOCAL BOARDS OF EDUCATION

20-2-49. Standards for local board of education members.

JUDICIAL DECISIONS

Constitutionality of statute providing for removal from office. — Georgia Supreme Court held that the removal of local school board members under O.C.G.A. § 20-2-73 was not an unconstitutional infringement upon the governing authority of local school boards, nor was it a violation of any other constitutional provision or right. *DeKalb County Sch. Dist. v. Ga. State Bd. of Educ.*, 294 Ga. 349, 751 S.E.2d 827 (2013).

Whether characterized as setting a qualification for continued service on the

local board in the extraordinary circumstance of an imminent loss of accreditation, or whether characterized as providing for removal for malfeasance, misfeasance, or nonfeasance in office, O.C.G.A. § 20-2-73 was held by the Georgia Supreme Court to be a permissible exercise of the legislative power to provide for the removal for cause of members of local boards. *DeKalb County Sch. Dist. v. Ga. State Bd. of Educ.*, 294 Ga. 349, 751 S.E.2d 827 (2013).

20-2-52.1. **Composition and election of county boards of education in counties in which there is a homestead option sales and use tax and a county sales and use tax for educational purposes; terms of service.**

(a) On and after January 1, 2015, in counties in which there is being collected a homestead option sales and use tax pursuant to Article 2A of Chapter 8 of Title 48 and a county sales and use tax for educational purposes pursuant to Part 2 of Article 3 of Chapter 8 of Title 48 and the

county board of education consists of more than seven members, such county boards of education shall comply with this Code section. Such county boards of education shall consist of seven members elected from separate single-member districts of approximately equal population. The number of members may be reduced to less than seven members by local legislation, but such members shall be elected from separate single-member districts of approximately equal population.

(b) Unless otherwise provided by local law, such county boards of education shall select from among their membership a chairperson and vice chairperson at the first meeting of each odd-numbered year.

(c) Unless otherwise provided by local law, such county boards of education shall serve staggered, four-year terms of office.

(d) In the event that a local law is not enacted prior to the qualifying period for the 2014 elections to conform the provisions of law regarding boards of education subject to this Code section to the size requirements of this Code section and if the election structure of such local board of education contains a plan for seven members from separate single-member districts encompassing all of the school district in addition to any other election provisions, then on January 1, 2015, the board of education shall consist only of seven members elected from such separate single-member districts and all other positions in excess of those seven shall be eliminated. In such case, those persons serving from odd-numbered districts shall serve for an initial term of two years and until their respective successors are elected and qualified. Those persons serving from even-numbered districts shall serve for an initial term of four years and until their respective successors are elected and qualified. Thereafter, successors to such members shall be elected at the general election immediately prior to the end of their respective terms of office to take office on January 1 immediately following such election for terms of four years and until their respective successors are elected and qualified. After January 1, 2015, the composition of such districts, number of districts, and staggering of terms may be changed by local law consistent with the provisions of this Code section, but shall not be changed prior to such date. (Code 1981, § 20-2-52.1, enacted by Ga. L. 2011, p. 26, § 2/SB 79; Ga. L. 2012, p. 1133, § 1/SB 412; Ga. L. 2014, p. 11, § 1/HB 979.)

The 2014 amendment, effective February 26, 2014, in subsection (a), inserted “separate” preceding “single-member” in

the second and third sentences; and added subsection (d).

20-2-54. Resignation of member of county board or superintendent.

Reserved. Repealed by Ga. L. 1986, p. 996, § 3, effective July 1, 1986.

Editor's notes. — Ga. L. 2014, p. 866, § 20(2)/SB 340, effective April 29, 2014, correct the Code, reserved the designation of this Code section. part of an Act to revise, modernize, and

20-2-55. Per diem, insurance, and expenses of local board members.

Law reviews. — For article on the 2012 amendment of this Code section, see 29 Ga. St. U.L. Rev. 139 (2012).

20-2-60. Consolidation of county schools.

The board of education of any county shall have the right, if, in its opinion, the welfare of the schools of the county and the best interests of the pupils require, to consolidate two or more schools into one school, to be located by the county board at a place convenient to the pupils attending the consolidated school. (Ga. L. 1919, p. 288, § 90; Code 1933, § 32-915; Ga. L. 1946, p. 206, § 3; Ga. L. 2013, p. 1061, § 1/HB 283.)

The 2013 amendment, effective July 1, 2013, deleted “, the schoolhouse to be located as near the center of the district or districts as practicable” following “school” at the end of this Code section.

20-2-61. Fundamental roles of local boards of education and local school superintendents.

JUDICIAL DECISIONS

Constitutionality of statute providing for removal from office. — Georgia Supreme Court held that the removal of local school board members under O.C.G.A. § 20-2-73 was not an unconstitutional infringement upon the governing authority of local school boards, nor was it a violation of any other constitutional provision or right. *DeKalb County Sch. Dist. v. Ga. State Bd. of Educ.*, 294 Ga. 349, 751 S.E.2d 827 (2013).

Whether characterized as setting a qualification for continued service on the

local board in the extraordinary circumstance of an imminent loss of accreditation, or whether characterized as providing for removal for malfeasance, misfeasance, or nonfeasance in office, O.C.G.A. § 20-2-73 was held by the Georgia Supreme Court to be a permissible exercise of the legislative power to provide for the removal for cause of members of local boards. *DeKalb County Sch. Dist. v. Ga. State Bd. of Educ.*, 294 Ga. 349, 751 S.E.2d 827 (2013).

20-2-73. Suspension and removal of local school board members upon potential loss of accreditation; procedures; prohibition on use of public funds for litigation expenses; reimbursement of expenses.

(a) Notwithstanding Code Section 20-2-54.1 or any other provisions of law to the contrary, if a local school system or school is placed on the level of accreditation immediately preceding loss of accreditation for

school board governance related reasons by one or more accrediting agencies included in subparagraph (A) of paragraph (6) of Code Section 20-3-519, the local board of education shall notify the State Board of Education in writing within three business days of such placement and the State Board of Education shall conduct a hearing in not less than ten days of such notice nor more than 90 days and recommend to the Governor whether to suspend all eligible members of the local board of education with pay. A majority of the members of a local board of education may petition the State Board of Education to continue any hearing scheduled under this subsection. Upon a showing of good cause, the state board may in its sound discretion continue any such hearing. Notwithstanding any other provision of law, deliberations held by the State Board of Education pursuant to this subsection to formulate its recommendation to the Governor shall not be open to the public; provided, however, that testimony shall be taken in an open meeting and a vote on the recommendation shall be taken in an open meeting following the hearing or at the next regularly scheduled meeting. If the State Board of Education makes such recommendation, the Governor may, in his or her discretion, suspend all eligible members of the local board of education with pay and, in consultation with the State Board of Education, appoint temporary replacement members who shall be otherwise qualified to serve as members of such board.

(b) Any local board of education member suspended under this Code section may petition the Governor for reinstatement no earlier than 30 days following suspension and no later than 60 days following suspension. In the event that a suspended member does not petition for reinstatement within the allotted time period, his or her suspension shall be converted into permanent removal, and the temporary replacement member shall become a permanent member and serve out the remainder of the term of the removed member.

(c) Upon petition for reinstatement by a suspended local board of education member, the Governor or his or her designated agent shall conduct a hearing for the purpose of receiving evidence relative to whether the local board of education member's continued service on the local board of education is more likely than not to improve the ability of the local school system or school to retain or reattain its accreditation. The appealing member shall be given at least 30 days' notice prior to such hearing. Such hearing shall be held not later than 90 days after the petition is filed and in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," except that the individual conducting the hearing shall have the power to call witnesses and request documents on his or her own initiative. For purposes of said chapter and any hearing conducted pursuant to this Code section, the Governor shall be considered the agency, and the Attorney General or his or her designee shall represent the interests of the Governor in the

hearing. If it is determined that it is more likely than not that the local board of education member's continued service on the local board of education improves the ability of the local school system or school to retain or reattain its accreditation, the member shall be immediately reinstated; otherwise, the member shall be permanently removed, and the temporary replacement member shall become a permanent member and serve out the remainder of the term of the removed member or until the next general election which is at least six months after the member was permanently removed, whichever is sooner. Judicial review of any such decision shall be in accordance with Chapter 13 of Title 50.

(d) Subsection (a) of this Code section shall apply to a local school system or school which is placed on the level of accreditation immediately preceding loss of accreditation on or after April 20, 2011.

(e) For purposes of this Code section, an eligible member of a local board of education shall mean a board member who was serving on the local board at the time the accrediting agency placed the local school system or school on the level of accreditation immediately preceding loss of accreditation.

(f) A local board of education shall not expend any public funds for attorney's fees or expenses of litigation relating to proceedings initiated pursuant to this Code section except to the extent such fees and expenses are incurred prior to and through the recommendation of the state board as provided for in subsection (a) of this Code section; provided, however, that nothing in this subsection shall be construed to prohibit an insurance provider from covering attorney's fees or expenses of litigation under an insurance policy.

(g) Any suspended board member who is reinstated by the Governor pursuant to this Code section may be reimbursed by the local board of education for his or her reasonable attorney's fees and related expenses incurred in pursuing such reinstatement. (Code 1981, § 20-2-73, enacted by Ga. L. 2010, p. 452, § 8/SB 84; Ga. L. 2011, p. 1, § 12/HB 326; Ga. L. 2011, p. 26, § 3/SB 79; Ga. L. 2011, p. 752, § 20/HB 142; Ga. L. 2013, p. 763, § 1/HB 115.)

The 2013 amendment, effective May 6, 2013, in subsection (a), deleted the paragraph (1) designation, in the first sentence, inserted "the local board of education shall notify the State Board of Education in writing within three business days of such placement and" near the middle, substituted "ten days of such notice nor more than 90 days" for "ten days nor more than 30 days", and added the second through fourth sentences; deleted former paragraph (a)(2), which read: "Not-

withstanding Code Section 20-2-54.1 or any other provisions of law to the contrary, if a local school system or school has been placed on, as of April 20, 2011, the level of accreditation immediately preceding loss of accreditation for school board governance related reasons by one or more accrediting agencies included in subparagraph (A) of paragraph (6) of Code Section 20-3-519 and does not reattain full accreditation status by July 1, 2011, the State Board of Education shall conduct a

hearing in not less than ten days nor more than 30 days and recommend to the Governor whether to suspend all members of the local board of education with pay. If the State Board of Education makes such recommendation, the Governor may, in his or her discretion, suspend all members of the local board of education with pay and, in consultation with the State Board of Education, appoint temporary replacement members who shall be otherwise

qualified to serve as members of such board.”; in subsection (d), substituted “Subsection” for “Paragraph (1) of subsection” at the beginning; substituted the present provisions of subsection (e) for the former provisions, which read: “This Code section shall apply to all local board of education members, regardless of when they were elected or appointed”; and added subsections (f) and (g).

JUDICIAL DECISIONS

Constitutionality. — Whether characterized as setting a qualification for continued service on the local board in the extraordinary circumstance of an imminent loss of accreditation, or whether characterized as providing for removal for malfeasance, misfeasance, or nonfeasance in office, O.C.G.A. § 20-2-73 was held by the Georgia Supreme Court to be a permissible exercise of the legislative power to provide for the removal for cause of members of local boards. *DeKalb County*

Sch. Dist. v. Ga. State Bd. of Educ., 294 Ga. 349, 751 S.E.2d 827 (2013).

Georgia Supreme Court held that the removal of local school board members under O.C.G.A. § 20-2-73 was not an unconstitutional infringement upon the governing authority of local school boards, nor was it a violation of any other constitutional provision or right. *DeKalb County Sch. Dist. v. Ga. State Bd. of Educ.*, 294 Ga. 349, 751 S.E.2d 827 (2013).

20-2-75. Failure of board members to fulfill obligations; litigation expenses; role of Attorney General.

(a) A member of a local board of education which is required to cause a local Act relating to such local board to be submitted for preclearance under the federal Voting Rights Act of 1965 to the United States Department of Justice or filed with the appropriate court in a designated timeframe who votes against submission, votes to withdraw a submission that has already been made, or takes no action toward complying with such submission requirement within the designated timeframe shall be guilty of a misdemeanor.

(b) A local board of education shall not expend any public funds for attorney’s fees or expenses of litigation relating to the defense of a criminal action against a local board member for a violation of subsection (a) of this Code section.

(c) Whenever any local board of education fails to cause a local Act relating to such local board to be submitted for preclearance under the federal Voting Rights Act of 1965 to the United States Department of Justice or filed with the appropriate court in a designated timeframe, withdraws a submission that has already been made, or takes no action toward complying with such submission requirement within the designated timeframe, the Attorney General shall either cause such submis-

sion to be made or shall bring such action or actions in his or her discretion as may be appropriate to enforce compliance with such submission requirements and to seek either civil or criminal penalties or both. (Code 1981, § 20-2-75, enacted by Ga. L. 2013, p. 1061, § 2/HB 283.)

Effective date. — This Code section became effective July 1, 2013.

ARTICLE 4

INCREASED FLEXIBILITY FOR LOCAL SCHOOL SYSTEMS

20-2-84. Accountability, flexibility, and consequences components of contract.

(a) The accountability component of the contract provided in Code Section 20-2-83 shall include at least one of the student achievement measures in paragraphs (1) through (4) of this subsection, including both total scores and any needed targeted subgroups:

(1) High school graduation rates;

(2) SAT or ACT performance;

(3) State standardized test data, which may include criterion-referenced competency tests, the Georgia High School Graduation Test, end-of-course assessments, or a combination thereof;

(4) Advanced placement or international baccalaureate participation and performance; and

(5) Any other accountability measures included pursuant to Part 3 of Article 2 of Chapter 14 of this title.

(b) The flexibility component of the contract provided in Code Section 20-2-83 shall include the waiver or variance of at least one of the areas in paragraphs (1) through (4) of this subsection as requested by the local school system:

(1) Class size requirements in Code Section 20-2-182;

(2) Expenditure controls in Code Section 20-2-171 and categorical allotment requirements in Article 6 of this chapter;

(3) Certification requirements in Code Section 20-2-200;

(4) Salary schedule requirements in Code Section 20-2-212; and

(5) Any other requirements or provisions of this chapter as identified by the local school system and approved by the state board except as provided in subsection (e) of Code Section 20-2-82.

(c) The consequences component of the contract provided in Code Section 20-2-83 shall include:

- (1) Interventions or sanctions for failure to meet identified levels of achievement or for not showing specified levels of progress pursuant to Code Section 20-14-41, which may be accelerated; and
- (2) Loss of governance of one or more nonperforming schools by the local school system in accordance with Code Section 20-2-84.1.

Consequences shall be incurred upon noncompliance of a local school system with the accountability component of its contract; provided, however, that if a local school system has been in compliance with the accountability component of its contract for at least three years, consequences shall not be invoked upon the fifth year of the contract, and such school system may request an extension of its contract and corresponding flexibility from the state board. If the local school system or a school within the school system meets the performance goals in its contract for such school system or school by the end of the fifth year of the contract, the school system or school shall be deemed to have met its contract performance goals. The schedule of interventions or sanctions, including loss of governance, for failure to meet identified levels of achievement or specified levels of progress shall be mutually agreed upon in the contract. If the Office of Student Achievement recommends to the state board that loss of governance not be included in a contract with respect to a high performing school, the contract may provide alternate terms with respect to that school. (Code 1981, § 20-2-84, enacted by Ga. L. 2008, p. 82, § 1/HB 1209; Ga. L. 2013, p. 1061, § 3/HB 283.)

The 2013 amendment, effective July 1, 2013, in the ending undesignated paragraph of subsection (c), deleted “consecutive” preceding “years” near the middle of the first sentence, and added the second sentence.

20-2-84.1. Loss of governance for nonperforming schools.

(a) The State Board of Education shall, as provided for in the contract entered into with a local school system pursuant to Code Section 20-2-83, mandate the loss of governance of one or more of its nonperforming schools as a consequence of failure pursuant to paragraph (2) of subsection (c) of Code Section 20-2-84. Such loss of governance may include, but shall not be limited to:

- (1) Conversion of a school to charter status with independent school level governance and a governance board with strong parental involvement;
- (2) Operation of a school by a successful school system, as defined by the Office of Student Achievement, and pursuant to funding criteria established by the state board; or

(3) Operation of a school by a private entity, nonprofit or for profit, pursuant to a request for proposals issued by the department.

(b) Loss of governance shall be invoked upon the end of the fifth year of the contract if the school system is in noncompliance as set out in the terms of the contract. (Code 1981, § 20-2-84.1, enacted by Ga. L. 2008, p. 82, § 1/HB 1209; Ga. L. 2013, p. 1061, § 4/HB 283.)

The 2013 amendment, effective July 1, 2013, inserted “end of the” near the beginning of subsection (b).

ARTICLE 5

LOCAL SCHOOL SUPERINTENDENTS

20-2-101. Appointment of school superintendents.

JUDICIAL DECISIONS

ANALYSIS

GENERAL CONSIDERATION

General Consideration

When election unauthorized, or statutory requirements not complied with, election void.

Triable issues of fact existed as to whether the school district intentionally discriminated against the employee’s race when the district issued the employee a two-year contract as superintendent of

the school district and when the district failed to renew the employee’s contract; of all the superintendents appointed by the school district after a change in the law, only the employee, the first African-American superintendent, received a two-year, probationary contract. *Dickey v. Crawford County Sch. Dist.*, No. (CAR), 2013 U.S. Dist. LEXIS 30505 (M.D. Ga. Mar. 5, 2013).

20-2-102. Qualifications of county school superintendents; filing proof of certification; exemptions.

Reserved. Repealed by Ga. L. 1993, p. 1279, § 9, effective April 15, 1993.

Editor’s notes. — Ga. L. 2014, p. 866, § 20(3)/SB 340, effective April 29, 2014, correct the Code, reserved the designation of this Code section. part of an Act to revise, modernize, and

20-2-103. Oath of local school superintendent.

Before entering upon the discharge of his or her official duties, the local school superintendent shall take and subscribe to the following oath of office:

STATE OF GEORGIA

COUNTY OF _____

I, _____, do solemnly swear or affirm that I will truly perform the duties of local school superintendent of the _____ School System to the best of my ability.

I do further swear or affirm:

- (1) That I am not the holder of any unaccounted for public money due this state or any political subdivision or authority thereof;
- (2) That I am not the holder of any office of trust under the government of the United States, any other state, or any foreign state which I am by the laws of the State of Georgia prohibited from holding;
- (3) That I am otherwise qualified to hold said office according to the Constitution and the laws of Georgia; and
- (4) That I will support the Constitution of the United States and of this state.

Signature of local school superintendent

Typed name of local school superintendent

Sworn and subscribed
before me this _____ day
of _____, _____.
(SEAL).

(Ga. L. 1919, p. 288, § 152; Code 1933, § 32-1007; Ga. L. 2012, p. 358, § 6/HB 706; Ga. L. 2013, p. 141, § 20/HB 79.)

The 2013 amendment, effective April 24, 2013, part of an Act to revise, modernize, and correct the Code, substituted “Typed name of local school superintendent” for “Typed name of member of _____ local school superintendent” near the end of the oath.

20-2-105. Suspension of county school superintendent; notice and hearing; appeal.

Reserved. Repealed by Ga. L. 1993, p. 1279, § 10, effective January 1, 1997.

Editor’s notes. — Ga. L. 2014, p. 866, § 20(4)/SB 340, effective April 29, 2014, part of an Act to revise, modernize, and correct the Code, reserved the designation of this Code section.

20-2-106. Removal of county school superintendent; notice and hearing; appeal.

Reserved. Repealed by Ga. L. 1993, p. 1279, § 11, effective January 1, 1997.

Editor's notes. — Ga. L. 2014, p. 866, § 20(5)/SB 340, effective April 29, 2014, correct the Code, reserved the designation of this Code section. part of an Act to revise, modernize, and

20-2-107. Filling vacancies in office of county school superintendent.

Reserved. Repealed by Ga. L. 1993, p. 1279, § 12, effective April 15, 1993.

Editor's notes. — Ga. L. 2014, p. 866, § 20(6)/SB 340, effective April 29, 2014, correct the Code, reserved the designation of this Code section. part of an Act to revise, modernize, and

20-2-109. Duties of local school superintendents.**JUDICIAL DECISIONS**

Superintendent as policymaker. — No clearly established law barred firing a school superintendent, considered a policymaking or confidential employee under Georgia law and an executive on whom the school board relied to enforce policies, for speaking about inadequate property tax collections as such speech was about quintessential policy matters; individual school board officials had qualified immunity on claims of retaliatory termination under the First and Fourteenth Amendments. *Leslie v. Hancock County Bd. of Educ.*, 720 F.3d 1338 (11th Cir. 2013).

20-2-110. Offices for county school superintendents.

Reserved. Repealed by Ga. L. 2013, p. 1061, § 5/HB 283, effective July 1, 2013.

Editor's notes. — This Code section was based on Ga. L. 1919, p. 288, § 157; Code 1933, § 32-1012.

ARTICLE 6

QUALITY BASIC EDUCATION

PART 1

SHORT TITLE AND PURPOSE

20-2-133. Free public instruction; exceptions; eligibility; custody of child; notification of local unit of administration of child's location; transfer and utilization of records; funding.

(a) Admission to the instructional programs funded under this article shall be free to all eligible children and youth who enroll in such programs within the local school system in which they reside and to children as provided in subsection (b) of this Code section. Therefore, a local school system shall not charge resident students tuition or fees, nor shall such students be required to provide materials or equipment except for items specified by the State Board of Education, as a condition of enrollment or full participation in any instructional program. However, a local school system is authorized to charge nonresident students tuition or fees or a combination thereof; provided, however, that such charges to a student shall not exceed the average locally financed per student cost for the preceding year, excluding the local five mill share funds required pursuant to Code Section 20-2-164; provided, further, that no child in a placement operated by the Department of Human Services or the Department of Behavioral Health and Developmental Disabilities or for which payment is made by the Department of Juvenile Justice, the Department of Human Services or any of its divisions, or the Department of Behavioral Health and Developmental Disabilities and no child who is in the physical or legal custody of the Department of Juvenile Justice, under the care or physical or legal custody of the Department of Human Services or any of its divisions, or under the physical custody of the Department of Behavioral Health and Developmental Disabilities shall be charged tuition, fees, or a combination thereof. A local school system is further authorized to contract with a nonresident student's system of residence for payment of tuition. The amount of tuition paid directly by the system of residence shall be limited only by the terms of the contract between systems. Local units of administration shall provide textbooks or any other reading materials to each student enrolled in a class which has a course of study that requires the use of such materials by the students.

(b)(1) Any child, except a child in a secure residential facility as defined in Code Section 15-11-2, as specifically provided in this

paragraph, who is in the physical or legal custody of the Department of Juvenile Justice or the Department of Human Services; in a placement operated by the Department of Human Services or the Department of Behavioral Health and Developmental Disabilities; or in a facility or placement paid for by the Department of Juvenile Justice, the Department of Human Services or any of its divisions, or the Department of Behavioral Health and Developmental Disabilities and who is physically present within the geographical area served by a local unit of administration for any length of time is eligible for enrollment in the educational programs of that local unit of administration; provided, however, that the child meets the age eligibility requirements established by this article. The local unit of administration of the school district in which such child is present shall be responsible for the provision of all educational programs, including special education and related services, at no charge so long as the child is physically present in the school district. A child shall be considered in the physical or legal custody of the Department of Juvenile Justice or the Department of Human Services or any of its divisions if custody has been awarded either temporarily or permanently by court order or by voluntary agreement, or if the child has been admitted or placed according to an individualized treatment or service plan of the Department of Human Services. A child shall be considered in a facility or placement paid for or operated by the Department of Behavioral Health and Developmental Disabilities if the child has been admitted or placed according to an individualized treatment or service plan of the Department of Behavioral Health and Developmental Disabilities. No child in a secure residential facility as defined in Code Section 15-11-2, regardless of his or her custody status, shall be eligible for enrollment in the educational programs of the local unit of administration of the school district in which such facility is located. No child or youth in the custody of the Department of Corrections or the Department of Juvenile Justice and confined in a facility as a result of a sentence imposed by a court shall be eligible for enrollment in the educational programs of the local unit of administration of the school district where such child or youth is being held.

(2) Except as otherwise provided in this Code section, placement in a facility by a parent or by another local unit of administration shall not create an obligation, financial or otherwise, on the part of the local unit of administration in which the facility is located to educate the child.

(3) For any child described in paragraph (1) of this subsection, the custodian of or placing agency for the child shall notify the appropriate local unit of administration at least five days in advance of the move, when possible, when the child is to be moved from one local unit of administration to another.

(4) When the custodian of or placing agency for any child notifies a local unit of administration, as provided in paragraph (3) of this subsection, that the child may become eligible for enrollment in the educational programs of a local unit of administration, such local unit of administration shall request the transfer of the educational records and Individualized Education Programs and all education related evaluations, assessments, social histories, and observations of the child from the appropriate local unit of administration no later than ten days after receiving notification. Notwithstanding any other law to the contrary, the custodian of the records has the obligation to transfer these records and the local unit of administration has the right to receive, review, and utilize these records. Notwithstanding any other law to the contrary, upon the request of a local unit of administration responsible for providing educational services to a child described in paragraph (1) of this subsection, the Department of Juvenile Justice, the Department of Behavioral Health and Developmental Disabilities, or the Department of Human Services shall furnish to the local unit of administration all medical and educational records in the possession of the Department of Juvenile Justice, the Department of Behavioral Health and Developmental Disabilities, or the Department of Human Services pertaining to any such child, except where consent of a parent or legal guardian is required in order to authorize the release of any of such records, in which event the Department of Juvenile Justice, the Department of Behavioral Health and Developmental Disabilities, or the Department of Human Services shall obtain such consent from the parent or guardian prior to such release.

(5) Any local unit of administration which serves a child pursuant to paragraph (1) of this subsection shall receive in the form of annual grants in state funding for that child the difference between the actual state funds received for that child pursuant to Code Section 20-2-161 and the reasonable and necessary expenses incurred in educating that child, calculated pursuant to regulations adopted by the State Board of Education. Each local board of education shall be held harmless by the state from expending local funds for educating students pursuant to this Code section; provided, however, that this shall only apply to students who are unable to leave the facility in which they have been placed.

(6) Enrollment of an eligible child pursuant to this Code section shall be effectuated in accordance with rules and regulations adopted by the State Board of Education.

(7) For purposes of the accountability program provided for in Part 3 of Article 2 of Chapter 14 of this title, all facilities serving children described in paragraph (1) of this subsection shall be, consistent with

department rules and regulations, treated as a single local education agency; provided, however, that this paragraph shall not be construed to alleviate any responsibilities of the local unit of administration of the school district in which any such children are physically present for the provision of education for any such children.

(8) The Department of Education, the Department of Human Services, the Department of Juvenile Justice, the Department of Behavioral Health and Developmental Disabilities, and the local units of administration where Department of Education, Department of Juvenile Justice, Department of Behavioral Health and Developmental Disabilities, or Department of Human Services placements, facilities, or contract facilities are located shall jointly develop procedures binding on all agencies implementing the provisions of this Code section applicable to children and youth in the physical or legal custody of the Department of Juvenile Justice, under the care or physical or legal custody of the Department of Human Services, or under the physical custody of the Department of Behavioral Health and Developmental Disabilities. (Code 1981, § 20-2-133, enacted by Ga. L. 1987, p. 1169, § 1; Ga. L. 1988, p. 612, § 4; Ga. L. 1989, p. 1693, § 1; Ga. L. 1991, p. 1825, § 1; Ga. L. 1992, p. 1983, § 20; Ga. L. 1997, p. 1453, § 1; Ga. L. 1998, p. 1582, § 1; Ga. L. 1999, p. 296, § 24; Ga. L. 2000, p. 618, § 96; Ga. L. 2006, p. 1052, § 1/SB 618; Ga. L. 2009, p. 453, § 2-2/HB 228; Ga. L. 2010, p. 286, § 15/SB 244; Ga. L. 2013, p. 187, § 1/SB 115; Ga. L. 2013, p. 294, § 4-32/HB 242.)

The 2013 amendments. — The first 2013 amendment, effective July 1, 2013, in paragraph (b)(1), in the first sentence, substituted “Department of Human Services; in a placement” for “Department of Human Services, or in a placement” and substituted a semicolon for a comma following “Department of Behavioral Health and Developmental Disabilities”, and, in the second sentence, substituted “charge so long” for “charge as long” near the end; in paragraph (b)(4), deleted “(IEP’s)” following “Individualized Education Programs” in the first sentence; added paragraph (b)(7); redesignated former paragraph (b)(7) as present paragraph (b)(8); and, in paragraph (b)(8), substituted “Department of Juvenile Justice, under” for “Department of Juvenile Justice or under” and added a comma following “Department of Human Services” near the end. The second 2013 amendment, effective January 1, 2014, in paragraph (b)(1), in the first sentence, substituted “secure residential facility as defined in

Code Section 15-11-2,” for “youth development center” near the beginning, substituted “Department of Human Services;” for “Department of Human Services, or”, and substituted a semicolon for a comma following “Developmental Disabilities”, in the second sentence, substituted “so long” for “as long”, in the third and fourth sentences, substituted “child shall be” for “child will be”, and, in the next to last sentence, substituted “secure residential facility as defined in Code Section 15-11-2” for “youth development center”, and substituted “such facility” for “that youth development center” near the end. See editor’s note for applicability.

Editor’s notes. — Ga. L. 2013, p. 294, § 5-1/HB 242, not codified by the General Assembly, provides that: “This Act shall become effective on January 1, 2014, and shall apply to all offenses which occur and juvenile proceedings commenced on and after such date. Any offense occurring before January 1, 2014, shall be governed by the statute in effect at the time of such

offense and shall be considered a prior adjudication for the purpose of imposing a disposition that provides for a different penalty for subsequent adjudications, of whatever class, pursuant to this Act. The

enactment of this Act shall not affect any prosecutions for acts occurring before January 1, 2014, and shall not act as an abatement of any such prosecutions.”

PART 2

COMPETENCIES AND CORE CURRICULUM

20-2-149.1. Instruction in cardiopulmonary resuscitation and use of automated external defibrillator; requirements.

(a) As used in this Code section, the term “psychomotor skills” means skills using hands-on practice to support cognitive learning.

(b) Beginning in the 2013-2014 school year, each local board of education which operates a school with grades nine through 12 shall provide instruction in cardiopulmonary resuscitation and the use of an automated external defibrillator to its students as a requirement within existing health or physical education courses. Such training shall include either of the following and shall incorporate into the instruction the psychomotor skills necessary to perform cardiopulmonary resuscitation and use an automated external defibrillator:

(1) An instructional program developed by the American Heart Association or the American Red Cross; or

(2) An instructional program which is nationally recognized and is based on the most current national evidence based emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of an automated external defibrillator.

(c) A teacher shall not be required to be a certified trainer of cardiopulmonary resuscitation or to facilitate, provide, or oversee instruction which does not result in certification in cardiopulmonary resuscitation and the use of an automated external defibrillator.

(d) This Code section shall not be construed to require students to become certified in cardiopulmonary resuscitation and the use of an automated external defibrillator; provided, however, that if a local board of education chooses to offer courses which result in certification being earned, such courses shall be taught by instructors in cardiopulmonary resuscitation and the use of an automated external defibrillator authorized to conduct an instructional program included in paragraph (1) or (2) of subsection (b) of this Code section.

(e) The Department of Education shall establish a procedure to monitor adherence by local boards of education. (Code 1981, § 20-2-149.1, enacted by Ga. L. 2013, p. 521, § 1/SB 212.)

Effective date. — This Code section became effective July 1, 2013.

PART 3

EDUCATIONAL PROGRAMS

20-2-151. General and career education programs; purpose; authorized programs.

(a) The primary purpose for the general and career education programs is to provide the children and youth of Georgia with a quality opportunity to master student competencies adopted by the State Board of Education through instruction which is based upon the uniformly sequenced core curriculum.

(b) The following general and career education programs are authorized for purposes of funding under this article:

(1)(A) All local school systems may offer a full-day kindergarten program. For purposes of this subsection, the term “full-day kindergarten program” means a student is provided classroom instruction for a minimum of four and one-half hours daily for a 180 day school year, or the equivalent thereof as determined in accordance with State Board of Education guidelines.

(B) It is the policy of this state that the purposes of the kindergarten program shall be to provide all children with an equal opportunity to become prepared for a successful first grade experience and to acquire the foundation for academic progress throughout the students’ educational careers. To be eligible for enrollment in a state supported kindergarten program, a child must attain the age of five by September 1, except as otherwise provided by subsection (b) of Code Section 20-2-150;

(2) It is the policy of this state that the purpose of the primary grades program shall be mastery by enrolled students of the essential basic skills and knowledge which will enable them to achieve more advanced skills and knowledge offered at the higher grade levels. For purposes of funding under this article, the primary grades program shall include grades one, two, and three. To be eligible for enrollment in the first grade of a state supported primary grades program, a child must attain the age of six by September 1, except as otherwise provided by subsection (b) of Code Section 20-2-150. The State Board of Education shall adopt an instrument or instruments, procedures, and policies necessary to assess the first grade readiness of children enrolled in Georgia’s public school kindergarten programs pursuant to Code Section 20-2-281. Readiness information obtained by the instrument or instruments adopted by the state board shall be used

by local school systems in concert with teacher recommendations and other relevant information to make appropriate student grade placement decisions. The Department of Education shall develop guidelines for utilization of the instrument or instruments in grade placement decisions and shall provide such guidelines to local school systems. The guidelines shall include information pertinent to consideration of the placement of students who have been identified as being disabled or limited-English-proficient. Whenever the decision is made not to promote a child to the first grade, the local school system shall document the reasons for the decision not to promote, according to guidelines established by the board. The State School Superintendent shall annually provide a report summarizing the results of the readiness of first grade Georgia public school kindergarten children. No student shall remain in kindergarten for more than two years;

(3) It is the policy of this state that the primary purposes of the middle grades program shall be assuring the mastery of essential basic skills and knowledge, assisting students in the transition from childhood to adolescence, and preparing students for the selection of programs and courses consistent with their abilities and interests when they enter high school, as well as providing an opportunity for mastery of essential but more advanced skills and knowledge. For purposes of funding under this article, the middle grades program shall include grades four, five, six, seven, and eight; and

(4)(A) It is the policy of this state that the primary purposes of the high school programs shall be to prepare students for the continuation of their education beyond high school and for entry into their chosen career fields as well as to prepare them to take their places in society as young adults. The following high school programs for grades nine, ten, 11, and 12 are authorized for purposes of funding under this article:

- (i) The high school education program; and
- (ii) The career, technical, and agricultural education laboratory program.

(B) As a reflection of the reduced teacher-student ratios and more extensive material and equipment needed for effective laboratory courses compared to courses with no or only limited laboratory experiences, the career, technical, and agricultural education laboratory program shall be funded at a higher level than the high school general education program. The state board shall adopt criteria which courses must meet in order to qualify for the career, technical, and agricultural education laboratory program. (Code 1981, § 20-2-151, enacted by Ga. L. 1985, p. 1657, § 1; Ga. L. 1987,

p. 1169, § 1; Ga. L. 1990, p. 1359, § 1; Ga. L. 1995, p. 1302, § 14; Ga. L. 2000, p. 618, § 14; Ga. L. 2001, p. 4, § 20; Ga. L. 2009, p. 638, § 1/HB 193; Ga. L. 2013, p. 1061, § 6/HB 283.)

The 2013 amendment, effective July 1, 2013, substituted “career, technical, and agricultural education” for “vocational” in division (b)(4)(A)(ii) and in the first and second sentences of subparagraph (b)(4)(B).

20-2-154.1. Alternative education programs; intent; description; funding.

(a) It is the policy of this state that the alternative education program shall provide a learning environment that includes the objectives of the quality core curriculum and that the instruction in an alternative education program shall enable students to return to a general or career education program as quickly as possible. Course credit shall be earned in an alternative education program in the same manner as in other education programs. It is the policy of this state that it is preferable to reassign disruptive students to an alternative education program rather than suspending or expelling such students from school.

(b) Alternative education programs are intended to meet the education needs of a student who is suspended from his or her regular classroom and also of a student who is eligible to remain in his or her regular classroom but is more likely to succeed in a nontraditional setting such as that provided in an alternative education program.

(c) As part of the process of assigning a student to an alternative education program for academic or nondisciplinary reasons, the school shall assess, through policies and procedures promulgated by the local board of education, the needs of the student and consider options for addressing those needs.

(d) Each local school system shall provide an alternative education program that:

(1) Is provided in a setting other than a student’s regular classroom;

(2) Is located on or off of a regular school campus and may include in-school suspension that provides continued progress on regular classroom assignments;

(3) Provides for disruptive students who are assigned to the alternative education program to be separated from nondisruptive students who are assigned to the program;

(4) Focuses on English language arts, mathematics, science, social studies, and self-discipline;

(5) Provides for students' educational and behavioral needs; and

(6) Provides supervision and counseling.

(e) An alternative education program may provide for a student's transfer to a different campus, a school-community guidance center, or a community based alternative school.

(f) A local school system may provide an alternative education program jointly with one or more other systems.

(g) Each local school system shall cooperate with government agencies and community organizations that provide services in the school district to students placed in an alternative education program.

(h) For the 2000-2001 and 2001-2002 school years, state funding of alternative education programs shall be based upon a full-time equivalent program count that equals 2.5 percent of the sum of the full-time equivalent program count of the middle grades program, the middle school program as defined in Code Section 20-2-290, the high school general education program (grades nine through 12), and the career, technical, and agricultural education laboratory program (grades nine through 12). For the 2002-2003 school year and thereafter, the amount of state funds appropriated and allocated for the alternative education program provided for in this Code section shall be based on the actual count of students served during the preceding year, except that the count of students served shall not exceed 2.5 percent of the sum of the full-time equivalent program count of the middle grades program, the middle school program as defined in Code Section 20-2-290, the high school general education program (grades nine through 12), and the career, technical, and agricultural education laboratory program (grades nine through 12). Funds earned may be expended in kindergarten and in grades one through 12.

(i) A local school system shall allocate to an alternative education program the same expenditure for each student attending the alternative education program, including federal, state, and local funds, that would be allocated to the student's school if the student were attending the student's regularly assigned education program, including a special education program, except as otherwise provided in this Code section.

(j) Upon the request of a local school system, a regional educational service agency may provide to the system information on developing an alternative education program that takes into consideration the system's size, wealth, and existing facilities in determining the program best suited to the system.

(k) If a student placed in an alternative education program enrolls in another local school system before the expiration of the period of placement, the local board of education requiring the placement shall

provide to the local school system in which the student enrolls, at the same time other records of the student are provided, a copy of the placement order. The local school system in which the student enrolls may continue the alternative education program placement under the terms of the order or may allow the student to attend regular classes without completing the period of placement.

(1) The State Board of Education shall adopt rules necessary to administer the provisions of this Code section. Academically, the mission of alternative education programs shall be to enable students to perform at grade level. Annually, the Office of Student Achievement shall define for alternative education programs acceptable performance and performance indicating a need for peer review, based principally on standards defined by the Office of Student Achievement that measure the academic progress of students toward performing at grade level while attending an alternative education program. (Code 1981, § 20-2-154.1, enacted by Ga. L. 2000, p. 618, § 17; Ga. L. 2001, p. 148, § 3; Ga. L. 2004, p. 107, § 22; Ga. L. 2009, p. 8, § 20/SB 46; Ga. L. 2013, p. 1061, § 7/HB 283.)

The 2013 amendment, effective July 1, 2013, substituted “career, technical, and agricultural education” for “vocational” in the first and second sentences of subsection (h).

20-2-157. Uniform reporting system for certain purposes; dual credit courses; academic eligibility requirements to receive HOPE scholarship.

(a) It is the intent of the General Assembly to establish a uniform reporting system to be used as one of the criteria to determine eligibility of students seeking educational scholarships, grants, or loan assistance administered by the Georgia Student Finance Commission pursuant to Article 7 of Chapter 3 of this title.

(a.1) As used in this Code section, the term “dual credit course” shall have the same meaning as in Code Section 20-2-159.5.

(b) Each school system and private school shall adopt the reporting system described in this subsection for purposes of identifying and qualifying graduating seniors for the HOPE scholarship program and other programs identified in this Code section:

(1) Each school system and private school shall transmit, in a manner and at times prescribed by the Georgia Student Finance Commission, an electronic transcript of courses and course grades for each graduating senior that reflects the complete high school academic record of the student, including scores on any state tests required for graduation, the grading scales used by the school system or private school for the time periods referenced by the transcripts,

and any other pertinent information as determined by the Georgia Student Finance Commission. Each grade reported by a school system or private school to the commission for the purpose of calculating the grade point average for HOPE scholarship eligibility shall be the actual grade earned by the student, with no weighting or addition of points by the local school system or private school;

(2) The Georgia Student Finance Commission shall calculate a grade point average for the purpose of determining eligibility for the HOPE scholarship from these electronic transcripts and shall notify students of their eligibility and high schools as to the eligibility of students;

(3) For students otherwise qualified and enrolling as freshmen students in eligible public or private postsecondary institutions for the first time on May 1, 2007, or thereafter, except as otherwise provided in paragraph (3.1) of this subsection, the Georgia Student Finance Commission shall calculate grade point averages for determining eligibility for the HOPE scholarship and other scholarships referenced in this Code section as follows:

(A) For students receiving a college preparatory diploma, each grade for a student in attempted coursework in English, mathematics, science, social studies, and foreign language that would, if successfully completed, satisfy a core graduation requirement for the college preparatory curriculum shall be equated to a grade on a 4.0 scale, such that a grade of "A" = 4.0, a grade of "B" = 3.0, a grade of "C" = 2.0, a grade of "D" = 1.0, and a grade of "F" = 0; or

(B) For students receiving a career/technical diploma, each grade for a student in attempted coursework in English, mathematics, science, and social studies that would, if successfully completed, satisfy a core graduation requirement for the career/technical curriculum shall be equated to a grade on a 4.0 scale, such that a grade of "A" = 4.0, a grade of "B" = 3.0, a grade of "C" = 2.0, a grade of "D" = 1.0, and a grade of "F" = 0.

Grades for coursework that is classified as advanced placement, a dual credit course, or international baccalaureate shall be weighted uniformly by the Georgia Student Finance Commission in calculating the overall grade point averages for students, provided that the weighting of such course grades is uniformly applied to all students in this state taking the specified coursework. The sum of the equated grades shall be divided by the number of course grades, adjusted for term length, to yield a grade point average on a 4.0 scale;

(3.1) For students otherwise qualified and enrolling in the ninth grade for the first time during the 2008-2009 school year and thereafter, the Georgia Student Finance Commission shall calculate

grade point averages for determining eligibility for the HOPE scholarship and other scholarships referenced in this Code section by equating each grade for a student in attempted coursework in English, mathematics, science, social studies, and foreign language during the student's ninth, tenth, eleventh, or twelfth grade year to a grade on a 4.0 scale, such that a grade of "A" = 4.0, a grade of "B" = 3.0, a grade of "C" = 2.0, a grade of "D" = 1.0, and a grade of "F" = 0. Grades for coursework that is classified as advanced placement, a dual credit course, or international baccalaureate shall be weighted uniformly by the Georgia Student Finance Commission in calculating the overall grade point averages for students, provided that the weighting of such course grades is uniformly applied to all students in this state taking the specified coursework. The sum of the equated grades shall be divided by the number of course grades, adjusted for term length, to yield a grade point average on a 4.0 scale; and

(4) Qualification for the HOPE scholarship shall be determined from the grade point average calculated either as set out in paragraph (3) of this subsection or as set out in paragraph (3.1) of this subsection for students enrolling in the ninth grade for the first time in a Georgia public school during the 2008-2009 school year and thereafter. Beginning May 1, 2007, students with grade point averages equal to or in excess of 3.0 on the 4.0 scale with a college preparatory diploma shall meet achievement standards for the HOPE scholarship; students receiving a career/technical diploma shall meet achievement standards for the HOPE scholarship with a grade point average equal to or in excess of 3.2 on a 4.0 scale. For students enrolling in the ninth grade for the first time in a Georgia public school during the 2008-2009 school year and thereafter, such students with grade point averages equal to or in excess of 3.0 on a 4.0 scale shall meet achievement standards for the HOPE scholarship. This paragraph shall apply regardless of when a student graduated from high school and regardless of such student's eligibility status prior to May 1, 2007.

(c)(1) Beginning with the school year beginning after May 1, 2011, each school system and private school shall adopt the reporting system described in this subsection for purposes of determining potential eligibility for freshman, sophomore, and junior high school students for the HOPE scholarship program and other programs identified in this Code section.

(2) Each school system and private school shall transmit to the Georgia Student Finance Commission, in such manner and at such times as the commission may prescribe, an electronic transcript of courses and course grades for each freshman, sophomore, and junior high school student that reflects the complete high school academic

record of the student, including scores on any state tests required for graduation, the grading scales used by the school system or private school for the time periods referenced by the transcripts, and any other pertinent information as determined by the Georgia Student Finance Commission. Each grade reported by a school system or private school to the commission for the purpose of calculating the grade point average for potential HOPE scholarship eligibility shall be the actual grade earned by the student with no weighting or addition of points by the school system or private school.

(3) The Georgia Student Finance Commission shall calculate a grade point average for the purpose of determining eligibility for the HOPE scholarship from these electronic transcripts and shall notify students of their potential eligibility and high schools as to the potential eligibility of students.

(d) Beginning with students graduating from high school on or after May 1, 2015, in order to be eligible to receive a HOPE scholarship, a student shall receive credit in at least two courses prior to graduating from high school from the following categories:

(1) Advanced math, such as Advanced Algebra and Trigonometry, Math III, or an equivalent or higher course;

(2) Advanced science, such as Chemistry, Physics, Biology II, or an equivalent or higher course;

(3) Advanced placement courses in core subjects;

(3.1) Dual credit courses in core subjects;

(4) International baccalaureate courses in core subjects;

(5) Courses taken at a unit of the University System of Georgia in core subjects where such courses are not remedial and developmental courses, as defined in Code Section 20-3-519; or

(6) Advanced foreign language courses.

Students may take one or more courses in each category; provided, however, that a course may only be counted one time. The Georgia Student Finance Commission shall be authorized to promulgate rules and regulations necessary to carry out the intent of this subsection.

(e) Beginning with students graduating from high school on or after May 1, 2016, in order to be eligible to receive a HOPE scholarship, a student shall receive credit in at least three courses prior to graduating from high school from the following categories:

(1) Advanced math, such as Advanced Algebra and Trigonometry, Math III, or an equivalent or higher course;

- (2) Advanced science, such as Chemistry, Physics, Biology II, or an equivalent or higher course;
- (3) Advanced placement courses in core subjects;
 - (3.1) Dual credit courses in core subjects;
- (4) International baccalaureate courses in core subjects;
- (5) Courses taken at a unit of the University System of Georgia in core subjects where such courses are not remedial and developmental courses, as defined in Code Section 20-3-519; or
- (6) Advanced foreign language courses.

Students may take one or more courses in each category; provided, however, that a course may only be counted one time. The Georgia Student Finance Commission shall be authorized to promulgate rules and regulations necessary to carry out the intent of this subsection.

(f) Beginning with students graduating from high school on or after May 1, 2017, in order to be eligible to receive a HOPE scholarship, a student shall receive credit in at least four courses prior to graduating from high school from the following categories:

- (1) Advanced math, such as Advanced Algebra and Trigonometry, Math III, or an equivalent or higher course;
- (2) Advanced science, such as Chemistry, Physics, Biology II, or an equivalent or higher course;
- (3) Advanced placement courses in core subjects;
 - (3.1) Dual credit courses in core subjects;
- (4) International baccalaureate courses in core subjects;
- (5) Courses taken at a unit of the University System of Georgia in core subjects where such courses are not remedial and developmental courses, as defined in Code Section 20-3-519; or
- (6) Advanced foreign language courses.

Students may take one or more courses in each category; provided, however, that a course may only be counted one time. The Georgia Student Finance Commission shall be authorized to promulgate rules and regulations necessary to carry out the intent of this subsection.

(g) At the conclusion of each school year, the local school system shall provide to each freshman, sophomore, and junior student or to his or her parent or guardian the grade point average calculated by the Georgia Student Finance Commission in accordance with the provisions of this Code section for determining HOPE eligibility. (Code 1981, § 20-2-157, enacted by Ga. L. 1994, p. 1057, § 1; Ga. L. 1998, p. 626,

§ 1; Ga. L. 2004, p. 922, § 1; Ga. L. 2009, p. 115, § 1/HB 313; Ga. L. 2010, p. 397, § 1/SB 340; Ga. L. 2011, p. 1, § 13/HB 326; Ga. L. 2011, p. 635, § 4/HB 186; Ga. L. 2013, p. 85, § 1/HB 131; Ga. L. 2014, p. 164, § 3A/HB 405.)

The 2013 amendment, effective July 1, 2013, added subsection (a.1); in the first sentence of the undesignated paragraph at the end of paragraph (b)(3) and in paragraph (b)(3.1), inserted “, a dual credit course,” and inserted “uniformly” before “weighted”, and substituted “this

state” for “the state” near the end; added paragraphs (d)(3.1), (e)(3.1) and (f)(3.1); and substituted “courses in core subjects” for “in core courses” in paragraphs (e)(4) and (f)(4).

The 2014 amendment, effective July 1, 2014, added subsection (g).

20-2-159.5. Dual credit courses; requirements.

(a) For purposes of this Code section, the term:

(1) “Dual credit course” means any arrangement whereby an eligible student takes one or more courses, including virtual courses, at or through an eligible institution while still enrolled as a public high school student and receives credit both at the high school and at the eligible institution.

(2) “Eligible institution” means any eligible postsecondary institution as defined in paragraph (7) of Code Section 20-3-519.

(3) “Eligible student” means a student entering ninth through twelfth grades who attends a public high school in this state and takes at least two courses per day on campus.

(4) “Secondary credit” means high school credit for dual credit courses taken at an eligible institution.

(b) The department, the Board of Regents of the University System of Georgia, and the State Board of the Technical College System of Georgia shall jointly:

(1) Establish the conditions under which high school students may earn dual credit for coursework completed while in high school. Such conditions shall include demonstration by students as to college readiness in reading, writing, and mathematics required for advanced training leading to a certificate, an associate’s degree, or a bachelor’s degree in order to receive dual credit as set forth in this Code section. A student who meets reading and writing readiness standards shall qualify to enroll in any dual credit course except in courses that require a strong mathematics foundation. To qualify for such mathematics courses, students shall be required to meet mathematics readiness standards as set forth in this Code section. Students who fail to meet these conditions may enroll in such courses if they enroll concurrently in specially designed courses to address

their deficits in reading and writing or mathematics or both and shall be awarded dual credit if they meet readiness standards before or at the point they successfully complete the dual credit course;

(2) Develop appropriate forms and counseling guidelines for dual credit courses and shall make such forms and guidelines available to local school systems and eligible institutions. No later than the first day of April each year, each local school system shall provide general information about dual credit courses, including such forms, to all its eighth through eleventh grade students. A local school system shall also provide counseling services in accordance with the counseling guidelines provided by the department to such students and their parents or guardians before the students enroll in a dual credit course. Prior to participating in a dual credit course, the student and the student's parent or guardian shall sign the form provided by the school system or by an eligible institution stating that they have received the counseling specified in this Code section and that they understand the responsibilities that shall be assumed in participating in the dual credit program; and

(3) Establish policies to ensure that dual credit courses reflect college-level work in order for such courses to yield dual credit, which shall include:

(A) Establishing college-readiness standards in reading, writing, and mathematics that students must meet to enroll in dual credit courses;

(B) Setting minimum eligibility requirements for earning college credit while in high school and for all state postsecondary institutions to apply to both academic and career, technical, and agricultural education dual credit courses;

(C) Establishing the same content standards, requirements for faculty, course syllabi, and end-of-course exams for dual credit academic and career, technical, and agricultural education courses, whether taught to high school or college students;

(D) Developing a state-wide system for the transfer of college credits earned through dual credit courses; and

(E) Determining how dual enrollment will be monitored to assure programs meet state standards for college-level work.

(c) Any eligible student may apply to an eligible institution to take one or more dual credit courses at or through that institution which are approved for secondary credit in accordance with the conditions established pursuant to subsection (d) of this Code section. If accepted at an eligible institution, such eligible student may take any such course at that institution, whether or not the course is taught during the regular

public school day, and receive secondary credit therefor under the conditions provided in this Code section.

(d)(1) A local school system shall grant academic credit to an eligible student enrolled in a dual credit course in an eligible institution if that course has been approved by the State Board of Education or in a virtual course approved by the State Board of Education if such student successfully completes such course. The State Board of Education shall approve any such course which is substantially comparable to a state approved course. The secondary credit granted shall be for the comparable course approved by the State Board of Education. Upon completion of an eligible institution's approved course, the eligible student shall be responsible for requesting that the institution notify the student's local school system regarding his or her grade in that course.

(2) Secondary school credits granted for dual credit courses under paragraph (1) of this subsection shall be counted toward State Board of Education graduation requirements and subject area requirements of the local school system. Evidence of successful completion of each course and secondary credits granted shall be included in the eligible student's secondary school records.

(3) Following the grant of postsecondary credit for successful completion of any dual enrollment course, when a student enrolls in an eligible institution after leaving secondary school, that eligible institution shall award postsecondary credit for any dual credit course successfully completed on the same basis on which such credits are customarily awarded. An eligible institution shall not charge a student for the award of such postsecondary credit.

(4) The department shall consult the Board of Regents of the University System of Georgia and the State Board of the Technical College System of Georgia in developing rules and regulations to be recommended to the State Board of Education for approval regarding the eligibility criteria for dual credit courses.

(e) The State Board of Education shall establish rules and regulations relating to applicable state and federal testing requirements for eligible students participating in dual credit courses.

(f) Any person who knowingly makes or furnishes any false statement or misrepresentation, or who accepts such statement or misrepresentation knowing it to be false, for the purpose of enabling an eligible institution to obtain wrongfully any payment under this Code section shall be guilty of a misdemeanor.

(g) Students enrolled in a work based learning program under Code Section 20-2-161.2 may be eligible to earn dual credit upon completing

a planned training experience under guidelines developed by the State Board of Education and the State Board of the Technical College System of Georgia provided students meet postsecondary readiness established in reading and writing and mathematics for the particular advanced training program or associate's degree. (Code 1981, § 20-2-159.5, enacted by Ga. L. 2011, p. 635, § 5/HB 186; Ga. L. 2014, p. 341, § 3/HB 766.)

The 2014 amendment, effective July 1, 2014, substituted "enrolled in a work based learning program under Code Section 20-2-161.2 may" for "enrolled in the Georgia Youth Apprenticeship Program under Code Section 20-2-161.2 shall" near the beginning of subsection (g).

Editor's notes. — Ga. L. 2014, p. 341, § 1/HB 766, not codified by the General Assembly, provides: "This Act shall be known and may be cited as the 'Work Based Learning Act.'"

PART 4

FINANCING

20-2-160. Determination of enrollment by institutional program; determination of funds to be appropriated.

(a) The State Board of Education shall designate the specific dates upon which two counts of students enrolled in each instructional program authorized under this article shall be made each school year and by which the counts shall be reported to the Department of Education. The initial enrollment count shall be made after October 1 but prior to November 17 and the final enrollment count after March 1 but prior to May 1. The report shall indicate the student's specific assigned program for each one-sixth segment of the school day on the designated reporting date. No program shall be indicated for a student for any one-sixth segment of the school day that the student is assigned to a study hall; a noncredit course; a course recognized under this article or by state board policy as an enrichment course, except a driver education course; a course which requires participation in an extracurricular activity for which enrollment is on a competitive basis; a course in which the student serves as a student assistant to a teacher, in a school office, or in the media center, except when such placement is an approved work site of a recognized career, technical, and agricultural education laboratory program; an individual study course for which no outline of course objectives is prepared in writing prior to the beginning of the course; or any other course or activity so designated by the state board. For the purpose of this Code section, the term "enrichment course" means a course which does not dedicate a major portion of the class time toward the development and enhancement of one or more student competencies as adopted by the state board under Code Section 20-2-140. A program shall not be indicated for a student for any

one-sixth segment of the school day for which the student is not enrolled in an instructional program or has not attended a class or classes within the preceding ten days; nor shall a program be indicated for a student for any one-sixth segment of the school day for which the student is charged tuition or fees or is required to provide materials or equipment beyond those authorized pursuant to Code Section 20-2-133. A student who is enrolled in a dual credit course pursuant to Code Section 20-2-159.5 shall be counted for the high school program or other appropriate program for each segment in which the student is attending such dual credit course. The state board shall adopt such regulations and criteria as necessary to ensure objective and true counts of students in state approved instructional programs. The state board shall also establish criteria by which students shall be counted as resident or nonresident students, including specific circumstances which may include, but not be limited to, students attending another local school system under court order or under the terms of a contract between two local school systems. If a local school system has a justifiable reason, it may seek authority from the state board to shift full-time equivalent program counts from the designated date to a requested alternate date.

(b) The full-time equivalent (FTE) program count for each local school system shall be obtained in the following manner:

(1) Count the number of one-sixth segments of the school day for which each student is enrolled in each program authorized under Code Section 20-2-161; and

(2) Divide the total number of segments counted for each program by six. The result is the full-time equivalent program count for each respective state recognized program.

(c) For the purpose of initially determining the amount of funds to be appropriated to finance each respective program for the ensuing fiscal year, a projection of the second full-time equivalent program count shall be calculated as follows:

(1) Divide the first total full-time equivalent count for the current fiscal year by the first total full-time equivalent count for the immediately preceding fiscal year;

(2) Multiply the quotient obtained in paragraph (1) of this subsection by the second total full-time equivalent count for the immediately preceding fiscal year. The result shall be the projected second total full-time equivalent count for the current fiscal year;

(3) Divide the average of the local school system's two most recent full-time equivalent program counts by the average of the two most recent total full-time equivalent counts; and

(4) Multiply the quotient obtained in paragraph (3) of this subsection by the product obtained in paragraph (2) of this subsection. The result shall be the projected second full-time equivalent program count for the current fiscal year.

(d) The average of the first full-time equivalent program count, weighted two parts, and the projected second full-time equivalent program count, weighted one part, shall be used to initially determine the funds needed to finance the program for the ensuing fiscal year.

(e) For purposes of calculating allotments for a new or revised instructional program for which the full-time equivalent program counts provided for in subsections (a) through (d) of this Code section do not exist, the most recent full-time equivalent program count shall be used until such time as the full-time equivalent program counts provided for in subsections (a) through (d) of this Code section do exist.

(f) The allotments for the alternative education program shall be calculated as provided in subsection (h) of Code Section 20-2-154.1. (Code 1981, § 20-2-160, enacted by Ga. L. 1985, p. 1657, § 1; Ga. L. 1987, p. 1169, § 1; Ga. L. 1988, p. 1991, § 1; Ga. L. 1990, p. 1354, § 2; Ga. L. 1992, p. 462, § 1; Ga. L. 1992, p. 1335, § 1; Ga. L. 1993, p. 1693, § 1; Ga. L. 1996, p. 494, § 1; Ga. L. 2000, p. 618, § 20; Ga. L. 2001, p. 148, § 4; Ga. L. 2005, p. 795, § 1/SB 33; Ga. L. 2006, p. 743, § 2/SB 515; Ga. L. 2011, p. 635, § 6/HB 186; Ga. L. 2012, p. 893, § 2/SB 289; Ga. L. 2013, p. 1061, § 8/HB 283.)

The 2013 amendment, effective July 1, 2013, substituted “career, technical, and agricultural education laboratory” for “career or vocational” in the middle of the fourth sentence of subsection (a).

20-2-161. Quality Basic Education Formula.

(a) The high school general education program is declared to be the base program against which the cost of all other instructional programs shall be compared. The amount of funds needed by each full-time equivalent student in the base program, in order that such program can be sufficiently funded to provide quality basic education to all enrolled students, shall be known as the “base amount” and shall reflect program components which constitute the program weight for the high school general education program in Code Sections 20-2-182 through 20-2-186. However, the General Assembly shall annually establish through the General Appropriations Act the base amount to be used each year. In the event that the base amount so established when multiplied by the program weights in subsection (b) of this Code section requires funds in excess of the appropriation for the Quality Basic Education Formula grants, the funds which are appropriated for the Quality Basic Education Formula shall be prorated to each of the Quality Basic Education Formula cost categories.

(b) As the cost of instructional programs varies depending upon the teacher-student ratios and specific services typically required to address the special needs of students enrolled, state authorized instructional programs shall have the following program weights and teacher-student ratios:

(1) Kindergarten program.....	1.6508
	weight and
	1 to 15
	ratio
(2) Kindergarten early intervention program.....	2.0348
	weight and
	1 to 11
	ratio
(3) Primary grades program (1-3).....	1.2849
	weight and
	1 to 17
	ratio
(4) Primary grades early intervention program (1-3).....	1.7931
	weight and
	1 to 11
	ratio
(5) Upper elementary grades program (4-5).....	1.0355
	weight and
	1 to 23
	ratio
(6) Upper elementary grades early intervention program (4-5).....	1.7867
	weight and
	1 to 11
	ratio
(7) Middle grades program (6-8).....	1.0186
	weight and
	1 to 23
	ratio
(8) Middle school program (6-8) as defined in Code Section 20-2-290.....	1.1310
	weight and
	1 to 20
	ratio

(9) High school general education program (9-12).....	1.0000
	weight and
	1 to 23
	ratio
(10) Career, technical, and agricultural education laboratory program (9-12).....	1.1916
	weight and
	1 to 20
	ratio
(11) Program for persons with disabilities: Category I.....	2.3798
	weight and
	1 to 8
	ratio
(12) Program for persons with disabilities: Category II.....	2.7883
	weight and
	1 to 6.5
	ratio
(13) Program for persons with disabilities: Category III.....	3.5493
	weight and
	1 to 5
	ratio
(14) Program for persons with disabilities: Category IV.....	5.7509
	weight and
	1 to 3
	ratio
(15) Program for persons with disabilities: Category V.....	2.4511
	weight and
	1 to 8
	ratio
(16) Program for intellectually gifted students: Category VI.....	1.6589
	weight and
	1 to 12
	ratio
(17) Remedial education program.....	1.3087
	weight and
	1 to 15
	ratio

(18) Alternative education program.....	1.4711
	weight and
	1 to 15
	ratio
(19) English for speakers of other languages (ESOL)	
program.....	2.5049
	weight and
	1 to 7
	ratio

(b.1) Notwithstanding the provisions of subsection (b) of this Code section and the requirements of Code Section 20-2-290, beginning July 1, 2014, a nonvirtual middle school shall have the funding weight included in paragraph (8) of subsection (b) of this Code section for the middle school program, regardless of whether such middle school meets the requirements of Code Section 20-2-290.

(c) For purposes of calculating the annual allotment of funds to each local school system, the program weights may be carried to as many additional decimal places as needed and may be varied from the weights stated in subsection (b) of this Code section, consistent with cost-of-living adjustments granted by the General Assembly for salaried and nonsalaried components, by not more than 1 1/2 percent.

(d) The total funds needed for the Quality Basic Education Program for each local school system shall be calculated annually. Such total shall represent the product of the following calculations for each of the programs identified in subsection (b) of this Code section:

- (1) Multiply the average full-time equivalent program count pursuant to subsection (b) of Code Section 20-2-160 by the respective program weight established in subsection (b) of this Code section;
- (2) Multiply the product computed in paragraph (1) of this subsection by the base amount as established in the General Appropriations Act; and
- (3) Add the product computed in paragraph (2) of this subsection to the program adjustment amount for training and experience for the instructional program in accordance with subsection (e) of this Code section.

The process and associated components contained within this Code section shall be known as the “Quality Basic Education Formula.”

(e) The State Board of Education shall annually calculate for each instructional program provided for in subsection (b) of this Code section for each local school system the amount of additional funds needed

beyond the amounts reflected in the base amount and the program weights, in order to pay the state minimum salaries pursuant to Code Section 20-2-212. The calculation of such additional amount shall be based on all certificated professional personnel who were employed by the local school system as of the month of October for the most recent year that these data are available; provided, however, that the amount needed for training and experience for personnel funded through categorical grants shall only be included in the appropriate categorical grant. The amount shall be reported for each program identified in subsection (b) of this Code section for each full-time equivalent program count date and by segment of the school day and for each categorical program. Such additional amount shall be known as “program adjustment amount for training and experience” and this amount shall be noted in total in the language section of the General Appropriations Act each year.

(f) As the relative costs of the various program components will change over time and as some components will need to be added or removed, the Governor shall appoint a task force every three years for the purposes of reviewing the effectiveness of existing program weights and recommending to the General Assembly any changes needed. This task force shall be comprised of members or staff of the General Assembly, the State Board of Education, the Governor’s office, and representatives of local school systems. (Code 1981, § 20-2-161, enacted by Ga. L. 1985, p. 1657, § 1; Ga. L. 1987, p. 1169, § 1; Ga. L. 1990, p. 847, § 1; Ga. L. 1991, p. 1531, § 2; Ga. L. 1995, p. 701, § 2; Ga. L. 1995, p. 1302, § 15; Ga. L. 1996, p. 6, § 20; Ga. L. 1996, p. 494, § 2; Ga. L. 1996, p. 1422, § 2; Ga. L. 1998, p. 1520, § 2; Ga. L. 2000, p. 618, § 21; Ga. L. 2001, p. 148, § 5; Ga. L. 2005, p. 798, § 1/SB 35; Ga. L. 2008, p. 216, § 1/HB 1335; Ga. L. 2013, p. 1061, § 9/HB 283.)

The 2013 amendment, effective July 1, 2013, in subsection (b), substituted “1.6508” for “1.6587” in paragraph (b)(1); substituted “2.0348” for “2.0496” in paragraph (b)(2); substituted “1.2849” for “1.2855” in paragraph (b)(3); substituted “1.7931” for “1.8029” in paragraph (b)(4); substituted “1.0355” for “1.0323” in paragraph (b)(5); substituted “1.7867” for “1.7971” in paragraph (b)(6); substituted “1.0186” for “1.0162” in paragraph (b)(7); substituted “1.1310” for “1.1213” in paragraph (b)(8); substituted “career, technical, and agricultural education” for “voca-

tional” and “1.1916” for “1.1847” in paragraph (b)(10); substituted “2.3798” for “2.3940” in paragraph (b)(11); substituted “2.7883” for “2.8156” in paragraph (b)(12); substituted “3.5493” for “3.5868” in paragraph (b)(13); substituted “5.7509” for “5.8176” in paragraph (b)(14); substituted “2.4511” for “2.4583” in paragraph (b)(15); substituted “1.6589” for “1.6673” in paragraph (b)(16); substituted “1.3087” for “1.3128” in paragraph (b)(17); substituted “1.4711” for “1.6025” in paragraph (b)(18); substituted “2.5049” for “2.5306” in paragraph (b)(19); and added subsection (b.1).

20-2-161.2. Work based learning programs; legislative intent; participation; standards; coordination; funding.

(a) The General Assembly finds that it would be beneficial to students, employers, and the economic health of the state to assist in providing highly trained, technologically sophisticated, and career oriented students which will aid in the development of a successful twenty-first century work force. By opening their doors to work based learning opportunities, employers can play an active role in shaping the quality of their future work force, by preparing potential leaders for their company and their community, and by helping shape future curriculum to create an educated work force for their industry as a whole. Work based learning programs can provide students the opportunity to work and learn in a real-world environment and prepare them for future career opportunities. Such work based learning opportunities can be accomplished by developing partnerships between and among the business community, industry, students, parents, school systems, and postsecondary education institutions.

(b) Any student aged 16 or over in any public school in this state may enroll in a work based learning program which is offered at that public school and which is approved for secondary credit by the department. Such student shall be granted release time from the public school to work as a student learner for any business or governmental enterprise which is approved by the local work based learning coordinator as a qualified employer pursuant to this Code section and work based learning program guidelines established by the department. A student shall receive secondary credit for such work based learning only under the conditions established by the department. The department is authorized to establish work based learning programs and guidelines to assist local school systems in operating such programs and to promulgate such policies, standards, procedures, criteria, and administrative requirements as may be necessary to implement the program by rules and regulations. The work based learning programs established pursuant to this Code section may include, but not be limited to, employability skill development, service learning, cooperative education, internships, and youth apprenticeships. The department shall collaborate with the Department of Labor and the Technical College System of Georgia in developing such policies and procedures. The department's work based learning programs shall include but not be limited to the following:

(1) A detailed training agreement and training plan between employer and student that identifies specific work tasks that will develop workplace competency;

(2) A minimum of one unit of credit in a career pathway course related to the work based learning placement;

(3) A minimum number of hours of on-the-job training as required in the department's guidelines for awarding secondary credit;

(4) On-site evaluation of the student's performance;

(5) Training remediation as necessary at the school site;

(6) A broad range of skills but shall be focused on skills related to the student's career pathway;

(7) Development of materials by the business, industry, and labor community in conjunction with the department to promote the awareness of work based learning opportunities for high school students and encourage recruitment; and

(8) Structural linkage between secondary and postsecondary components of the program leading to the awarding of a high school diploma and a postsecondary credential related to the student's career pathway.

(c) Local school systems and college and career academies may designate one or more local work based learning coordinators to coordinate and oversee work based learning programs for the school system.

(d) Local work based learning coordinators shall complete training programs that are collaboratively designed and delivered by the department and the Technical College System of Georgia.

(e) A college and career academy established in accordance with Code Section 20-4-37 which participates in work based learning programs pursuant to this Code section and its charter shall be eligible for any funding or assistance available for the implementation of this Code section.

(f) The State Board of Education shall encourage local school systems to work with their industry partners to develop and provide opportunities for industry experience for local work based learning coordinators and for teachers and shall provide for professional learning credit for coordinators and teachers who participate in such opportunities. (Code 1981, § 20-2-161.2, enacted by Ga. L. 1992, p. 2772, § 1; Ga. L. 2008, p. 335, § 2/SB 435; Ga. L. 2014, p. 341, § 2/HB 766.)

The 2014 amendment, effective July 1, 2014, rewrote this Code section.

Editor's notes. — Ga. L. 2014, p. 341, § 1/HB 766, not codified by the General

Assembly, provides: "This Act shall be known and may be cited as the 'Work Based Learning Act.'"

20-2-165.1. Charter system earnings for each full-time equivalent student; use of funds.

In addition to the amounts earned by a charter system pursuant to subsection (b) of Code Section 20-2-161, a charter system shall earn 3.785 percent of the base amount established pursuant to subsection (a) of Code Section 20-2-161 for each full-time equivalent student in each school within the charter system; provided, however, that no individual charter system shall receive more than \$4.5 million in a fiscal year. Funds appropriated pursuant to this Code section shall be used in accordance with recommendations of the school level governing body established by the charter or to advance student achievement goals and school level governance training objectives pursuant to the charter. (Code 1981, § 20-2-165.1, enacted by Ga. L. 2008, p. 603, § 2A/HB 881; Ga. L. 2013, p. 1061, § 10/HB 283.)

The 2013 amendment, effective July 1, 2013, in this Code section, added the proviso at the end of the first sentence, and added the second sentence.

20-2-171. Minimum direct classroom expenditures; waivers; sanctions for noncompliance; submission of budget and expenditure information; rules and regulations.

(a) For purposes of this Code section, the term:

(1) “Direct classroom expenditures” means all expenditures by a local school system during a fiscal year for activities directly associated with the interaction between teachers and students, including, but not limited to, salaries and benefits for teachers and paraprofessionals; costs for instructional materials and supplies; costs associated with classroom related activities, such as field trips, physical education, music, and arts; and tuition paid to out-of-state school districts and private institutions for special needs students. This term shall not include costs for administration, plant operations and maintenance, food services, transportation, instructional support including media centers, teacher training, and student support such as nurses and school counselors.

(2) “Total operating expenditures” means all operating expenditures by a local school system during a fiscal year, including expenditures from federal, state, and local funds and from any other funds received by a local school system, such as student activity fees. This term shall not include capital outlay expenditures, debt or bond payments, interest on debt or bonds, facility leases, or rental payments. This term shall also not include any costs which are incurred by a local school system to comply with any mandate by statute or by the Georgia Department of Education effective on or after January 1, 2006, to add specific nonclassroom staff positions.

(b) Beginning with fiscal year 2008:

(1) Each local school system shall spend a minimum of 65 percent of its total operating expenditures on direct classroom expenditures, except as otherwise provided in this subsection;

(2) For any fiscal year in which a local school system has direct classroom expenditures that are less than 65 percent of its total operating expenditures, the local school system shall be required to increase its direct classroom expenditures by a minimum of 2 percent per fiscal year as a percentage of total operating expenditures, beginning in the subsequent fiscal year and each fiscal year thereafter, until it reaches 65 percent. For fiscal year 2008, the baseline year from which the required increase will be determined shall be based on expenditure data from fiscal year 2007;

(3) A local school system that has direct classroom expenditures that are less than 65 percent of its total operating expenditures and that is unable to meet the expenditure requirements in paragraph (2) of this subsection may apply to the State Board of Education for a one-year renewable achievement waiver. The waiver request must include evidence that the local school system is exceeding the state averages in academic categories designated by the board, which may include, but not be limited to, criterion-referenced competency tests, the Georgia High School Graduation Test, and the SAT, a plan for obtaining compliance with this Code section, and any other information required at the discretion of the board; and

(4) A local school system that has direct classroom expenditures that are less than 65 percent of its total operating expenditures and that is unable to meet the expenditure requirements in paragraph (2) of this subsection may apply to the State Board of Education for a one-year renewable hardship waiver. Waivers granted pursuant to this paragraph shall be limited to extreme situations in which such situation is solely responsible for the local school system's inability to meet the expenditure requirements. Such situations may include, but are not limited to, acts of God and inordinate unexpected increases in energy and fuel costs. The waiver request must include revenue and expenditure reports and specific details providing compelling evidence as to the impact that the intervening extreme situation had on the local school system's ability to comply with expenditure requirements and any other information required at the discretion of the board.

(c) The State Board of Education shall have the authority to impose sanctions against a local school system that fails to comply with the provisions of this Code section or any rules and regulations promulgated pursuant to subsection (e) of this Code section. Such sanctions

shall be at the discretion of the board and may include, but not be limited to, requiring the local school system to devise and implement a plan to meet the expenditure requirements of this Code section in the subsequent fiscal year or withholding all or any portion of state funds in accordance with Code Section 20-2-243.

(d) The State Board of Education shall be authorized to require the submission of budget information and expenditure data from local school systems for the purposes of verifying compliance with this Code section.

(e) The State Board of Education shall be authorized to promulgate rules and regulations to implement the provisions of this Code section. (Code 1981, § 20-2-171, enacted by Ga. L. 2006, p. 56, § 2/SB 390; Ga. L. 2009, p. 8, § 20/SB 46; Ga. L. 2013, p. 1061, § 33/HB 283.)

The 2013 amendment, effective July 1, 2013, substituted “school counselors” for “guidance counselors” at the end of paragraph (a)(1).

PART 5

PROGRAM WEIGHTS AND FUNDING REQUIREMENTS

20-2-181. Calculation of program weights to reflect base school size.

The calculation of all program weights shall reflect a base size local school system of 3,300 full-time equivalent students. The calculation of program weights for the kindergarten program, the kindergarten early intervention program, the primary grades (1-3) early intervention program, the primary grades (1-3) program, the upper elementary grades (4-5) early intervention program, and the upper elementary grades (4-5) program shall reflect a base school size of 450 full-time equivalent students. The calculation of program weights for the middle grades (6-8) program, the middle school (6-8) program, the special education programs, the remedial education program, and the English for speakers of other languages program shall reflect a base school size of 624 full-time equivalent students. The calculation of the program weights for the high school general education program and the high school career, technical, and agricultural education laboratory program shall reflect a base school size of 970 full-time equivalent students. The calculation of program weights for the alternative education program shall reflect a base school size of 100 full-time equivalent students, except that the calculations for secretaries and media personnel shall reflect a base school size of 624 full-time equivalent students. (Code 1981, § 20-2-181, enacted by Ga. L. 1985, p. 1657, § 1; Ga. L. 1987, p. 1169, § 1; Ga. L. 1990, p. 847, § 3; Ga. L. 2000, p. 618, § 26; Ga. L. 2001, p. 148, § 8; Ga. L. 2013, p. 1061, § 11/HB 283.)

The 2013 amendment, effective July 1, 2013, substituted “career, technical, agricultural education” for “vocational” in the fourth sentence.

20-2-182. Program weights to reflect funds for payment of salaries and benefits; maximum class size; reporting requirements; application to specific school years.

(a) The program weights, when multiplied by the base amount, shall reflect sufficient funds to pay at least the beginning salaries of all teachers needed to provide essential classroom instruction in order to ensure a Quality Basic Education Program for all enrolled students, subject to appropriation by the General Assembly.

(b) The program weights for the primary, primary grades early intervention, upper elementary, upper elementary grades early intervention, middle grades, and middle school programs, when multiplied by the base amount, shall reflect sufficient funds to pay at least the beginning salaries of specialists qualified to teach art, music, foreign language, and physical education, subject to appropriation by the General Assembly.

(c) The program weights for the kindergarten, kindergarten early intervention, primary, primary grades early intervention, upper elementary, upper elementary grades early intervention, middle grades, middle school, and alternative education programs and the program weights for the high school programs authorized pursuant to paragraph (4) of subsection (b) of Code Section 20-2-151, when multiplied by the base amount, shall reflect sufficient funds to pay the beginning salaries for at least one school counselor for every 450 full-time equivalent students. Beginning in Fiscal Year 2015 and thereafter, the program weights for the English for speakers of other languages program and the programs for persons with disabilities shall also earn school counselor funding. Further, beginning in Fiscal Year 2016 and thereafter, the program weights for the program for intellectually gifted students and the remedial education program shall also earn school counselor funding. The duties and responsibilities for such school counselors shall be established by the state board to require a minimum of five of the six full-time equivalent program count segments of the counselor’s time to be spent counseling or advising students or parents.

(c.1) The program weights for the kindergarten and the kindergarten early intervention programs, when multiplied by the base amount, shall reflect sufficient funds to pay the salaries for instructional aides.

(d) All program weights, when multiplied by the base amount, shall reflect sufficient funds to pay the beginning salaries for technology specialists needed to provide essential technology services.

(e) The program weights for the high school programs authorized pursuant to paragraph (4) of subsection (b) of Code Section 20-2-151,

when multiplied by the base amount, shall reflect sufficient funds to provide teachers with a preparation period free of assigned students.

(f) Reserved.

(g) All program weights, when multiplied by the base amount, shall reflect sufficient funds to pay the cost of sick and personal leave for teachers, the employer's portion of costs for membership in the Teachers Retirement System of Georgia and health insurance programs authorized by law, the cost of essential instructional materials, which shall include, but not be limited to, textbooks and technology, and equipment needed to operate effectively such instructional programs, and the cost of travel required of personnel in order to deliver educational services to enrolled students, subject to appropriation by the General Assembly.

(h) All program weights, when multiplied by the base amount, shall reflect, whenever they are revised pursuant to subsection (f) of Code Section 20-2-161, an amount of funds for the purpose of providing staff and professional development to certificated and classified personnel and local school board members which shall be at least equivalent to 1.0 percent of salaries of all certificated professional personnel used in the development of each respective program weight, subject to appropriation by the General Assembly. Beginning in Fiscal Year 2014, such amount shall include funding for school level administrators in the same manner as for other certificated professional personnel. Beginning in Fiscal Year 2015, such amount shall be at least equivalent to 0.9 percent of salaries of all certificated professional personnel, including school level administrators, used in the development of each respective program weight, subject to appropriation by the General Assembly. Funds used for professional or staff development purposes may be used throughout the fiscal year, including days when students are not present at school, to meet professional or staff development needs in the order of priority determined by the local board of education within the comprehensive professional and staff development program plan approved by the State Board of Education pursuant to Code Section 20-2-232. Such professional and staff development program plan shall address deficiencies of certificated personnel as identified by evaluations required under Code Section 20-2-210. Further, professional and staff development funds shall be used for activities that enhance the skills of certificated personnel and directly relate to student achievement, as reflected in the revised certification renewal rules established by the Professional Standards Commission pursuant to paragraph (4.1) of subsection (b) of Code Section 20-2-200 regarding the impact of professional learning on student achievement. Subsequent certificated personnel evaluations shall include an assessment of an employee's professional and staff development activities and their effect on iden-

tified deficiencies and student achievement. Funds for professional development purposes may be used for activities occurring at any time during the fiscal year outside of an employee’s normal contract hours.

(i)(1) It is the intent of this paragraph to provide a clear expectation to parents and guardians as to the maximum number of students that may be in their child’s classroom in kindergarten through eighth grade. Beginning with the 2006-2007 school year, for the following regular education programs, the maximum individual class size for mathematics, science, social studies, and language arts classes shall be:

(A) Kindergarten program (without full-time aide)	18
(B) Kindergarten program (with full-time aide) ...	20
(C) Primary grades program (1-3)	21
(D) Upper elementary grades program (4-5)	28
(E) Middle grades program (6-8) and middle school program (6-8) as defined in Code Section 20-2-290	28

For school years 2010-2011, 2011-2012, 2012-2013, 2013-2014, and 2014-2015 only, the system average maximum class size for each instructional program covered under this paragraph shall be the same as the maximum individual class size for each such program, and local boards of education shall be considered in compliance with this paragraph so long as the system average maximum class size is not exceeded; provided, however, that if the State Board of Education approves a blanket waiver or variance pursuant to subsection (h) of Code Section 20-2-244, such maximum individual class sizes shall be the system average maximum class sizes for purposes of this paragraph.

(2) The State Board of Education shall adopt for each instructional program authorized pursuant to Part 3 of this article except those programs included in paragraph (1) of this subsection the maximum number of students which may be taught by a teacher in an instructional period. For the remedial education, career, technical, and agricultural education laboratory, alternative education, and early intervention programs, the State Board of Education shall provide for a system average maximum class size that shall not exceed the funding class size by more than 20 percent, unless specifically authorized by the State Board of Education; provided, however, that the system average maximum class size for special education, gifted, and English for speakers of other languages classes shall be set by the State Board of Education. For each instructional program covered under this paragraph, the maximum number of

students who may be taught by a teacher in an instructional period shall not exceed the system average maximum class size for the program by more than two students; provided, however, that a system average maximum class size which results in a fractional full-time equivalent shall be rounded up to the nearest whole number; provided, however, that this provision shall not apply to general education programs in mathematics, science, social studies, and language arts for grades 9 through 12. Beginning with the 2007-2008 school year, each local board of education shall be allowed to exceed maximum class sizes set by the state board pursuant to this paragraph for general education programs in mathematics, science, social studies, and language arts for grades 9 through 12 and may establish such maximum class sizes that shall not exceed the funding class size by more than 39 percent and shall annually report to the state board and to each school council in its school system such class sizes established.

(3) The maximum individual class size for the kindergarten and primary grades programs is defined as the number of students in a physical classroom. The maximum individual class size for all other purposes shall be defined as the maximum number of students that may be taught by a teacher in a class segment. Maximum class sizes for the programs covered in paragraph (2) of this subsection that result in a fractional full-time equivalent shall be rounded up to the nearest whole number as needed.

(4) The number of students taught by a teacher at any time after the first 15 school days of a school year may not exceed the maximum such number unless authorization for a specific larger number is requested of the state board after the first FTE count of a school year as required in subsection (a) of Code Section 20-2-160. The state board may approve said request only in the limited circumstance where educationally justified and where an act of God or other unforeseen event led to the precipitous rise in enrollment within that school system or led to another occurrence which resulted in the local board's inability to comply with this subsection. The state board shall not reduce class sizes without the authorization of the General Assembly if this reduction necessitates added costs for facilities, personnel, and other program needs. Local boards of education may reduce class sizes, build additional facilities, and provide other resources at local cost if such actions are in the best interest of the local school systems' programs as determined by the local boards of education.

(j) In its report of the initial full-time equivalent program count required by subsection (a) of Code Section 20-2-160, each local school system shall report to the Department of Education the number of

students in each class in each school as of the date of the initial enrollment count; for schools where students change classes during the school day, the local school system shall report the number of students in each class period. Each local school system shall also report to the Department of Education by March 15 of each school year the number of students in each class in each school as of the first Monday in March; for schools where students change classes during the school day, the local school system shall report the number of students in each class period. (Code 1981, § 20-2-182, enacted by Ga. L. 1985, p. 1657, § 1; Ga. L. 1987, p. 1169, § 1; Ga. L. 1988, p. 612, § 8; Ga. L. 1988, p. 1412, § 2; Ga. L. 1988, p. 1496, § 1; Ga. L. 1990, p. 847, § 4; Ga. L. 1990, p. 918, § 1; Ga. L. 1991, p. 94, § 20; Ga. L. 1991, p. 1531, § 5; Ga. L. 1994, p. 1315, § 4; Ga. L. 2000, p. 618, § 27; Ga. L. 2001, p. 148, § 9; Ga. L. 2003, p. 185, § 4; Ga. L. 2004, p. 107, § 5; Ga. L. 2005, p. 60, § 20/HB 95; Ga. L. 2005, p. 798, § 4/SB 35; Ga. L. 2006, p. 66, § 2/HB 1358; Ga. L. 2007, p. 674, § 2/SB 123; Ga. L. 2009, p. 8, § 20/SB 46; Ga. L. 2010, p. 158, § 3/HB 908; Ga. L. 2011, p. 647, § 4/HB 192; Ga. L. 2011, p. 752, § 20/HB 142; Ga. L. 2012, p. 355, § 2/SB 404; Ga. L. 2013, p. 1061, § 12/HB 283.)

The 2013 amendment, effective July 1, 2013, substituted the present provisions of subsection (c) for the former provisions, which read: "The program weights for the kindergarten, kindergarten early intervention, primary, primary grades early intervention, upper elementary, upper elementary grades early intervention, middle grades, middle school, and alternative education programs and the program weights for the high school programs authorized pursuant to paragraph (4) of subsection (b) of Code Section 20-2-151, when multiplied by the base amount, shall reflect sufficient funds to

pay the beginning salaries for guidance counselors needed to provide essential guidance services to students and whose duties and responsibilities shall be established by the state board to require a minimum of five of the six full-time equivalent program count segments of the counselor's time to be spent counseling or advising students or parents."; inserted ", which shall include, but not be limited to, textbooks and technology," in the middle of subsection (g); and substituted "career, technical, and agricultural education" for "vocational" near the beginning of the second sentence of paragraph (i)(2).

20-2-184.1. Funding for additional days of instruction; programs for low-performing students; transportation costs.

(a) The program weights for the kindergarten, kindergarten early intervention, primary, primary grades early intervention, upper elementary, upper elementary grades early intervention, middle grades, middle school, and remedial programs and the program weights for the high school programs authorized pursuant to paragraph (4) of subsection (b) of Code Section 20-2-151, when multiplied by the base amount, shall reflect sufficient funds to pay the beginning salaries for instructors needed to provide 20 additional days of instruction for 10 percent of the full-time equivalent count of the respective program. Such funds

shall be used for addressing the academic needs of low-performing students with programs including, but not limited to, instructional opportunities for students beyond the regular school day, Saturday classes, intersession classes, summer school classes, and additional instructional programs during the regular school day. Following the midterm adjustment, the state board shall issue allotment sheets for each local school system. Each local school system shall spend 100 percent of the funds designated for additional days of instruction for such costs at the system level, which may include transportation costs incurred for transporting students who are attending additional classes funded by these designated funds.

(b) (Repealed effective July 1, 2015.) (1) For school years 2010-2011, 2011-2012, 2012-2013, 2013-2014, and 2014-2015 only, the expenditure controls contained in subsection (a) of this Code section relating to additional days of instruction shall be waived and shall not apply to nor be enforceable against a local school system.

(2) Each local school system shall report to the Department of Education its budgets and expenditures of the funds received pursuant to this Code section as a part of its report in October for the FTE count and its report on March 15.

(3) No penalty shall be applied to a local school system for failure to comply with expenditure controls set out in subsection (a) of this Code section, notwithstanding any law to the contrary, so long as such local school system complies with this subsection.

(4) Nothing in this Code section shall be construed to repeal any other provision of this Code section or this chapter.

(5) This subsection shall be automatically repealed on July 1, 2015. (Code 1981, § 20-2-184.1, enacted by Ga. L. 2001, p. 148, § 10; Ga. L. 2003, p. 185, § 5; Ga. L. 2010, p. 158, § 4/HB 908; Ga. L. 2011, p. 647, § 5/HB 192; Ga. L. 2011, p. 752, § 20/HB 142; Ga. L. 2013, p. 1061, § 13/HB 283.)

The 2013 amendment, effective July 1, 2013, in subsection (a), substituted “summer school classes, and additional instructional programs during the regular school day” for “and summer school classes” near the end of the second sentence, and substituted the present provisions of the fourth and fifth sentences for the former provisions, which read: “Each

local school system shall spend 100 percent of the funds designated for additional days of instruction for such costs at the system level. Up to 15 percent of funds designated for additional days of instruction may be spent for transportation costs incurred for transporting students who are attending the additional classes funded by these designated funds.”

20-2-186. Allocation of funds for local systems to pay beginning salaries of superintendents, secretaries, accountants, nurses, and certain other personnel; eligibility of failing schools for funds.

(a) Funds provided under this article shall include the following for local systems to pay, on a 12 month basis, the beginning salaries of superintendents, assistant superintendents, and principals and the salaries of secretaries, accountants, and nurses, subject to appropriation by the General Assembly:

(1) Each local system shall earn, for any number of full-time equivalent students equal to or under 5,000, funds sufficient to pay the beginning salaries of a superintendent and two assistant superintendents and the salaries of a secretary and an accountant; and

(2) For numbers of full-time equivalent students over 5,000 and less than 10,001, funds sufficient to pay the beginning salaries of a superintendent and four assistant superintendents and the salaries of a secretary and an accountant; and

(3) For numbers of full-time equivalent students over 10,000, funds sufficient to pay the beginning salaries of a superintendent and eight assistant superintendents and the salaries of a secretary and an accountant; and

(4) Each local system shall earn funds for the 2000-2001 school year sufficient to pay the beginning salary of a principal for each school in the local school system with a principal of record for the preceding year. Thereafter, each local school system shall earn funds sufficient to pay the beginning salary of a principal for each school in the local school system that reported a principal on the October certified personnel information report; provided, however, that any school which operates as a combination school, which is defined as any of the elementary grades, kindergarten through grade five, contiguous with one or more of the middle grades, grades six through eight; or as a combination school of any of the middle grades, grades six through eight, contiguous with one or more of the elementary grades or contiguous with one or more of the high school grades, grades nine through 12; or as a combination school of any of the high school grades, contiguous with one or more of the middle grades, shall earn funds sufficient to pay the beginning salary of a principal for each of the elementary, middle, or high school combinations. For purposes of this paragraph, "contiguous" means grade levels in sequence, regardless of whether schools operating as a combination school are on the same campus sharing facilities or at different locations. Beginning with the 2001-2002 school year, funds cannot be earned for more than one principal's salary for schools on the same

campus sharing facilities unless the schools operate as a combination school as defined in this paragraph with separate facility codes issued by the Department of Education. A local school system shall earn funds in the midterm adjustment sufficient to pay the beginning salary of a principal for a new school, if not otherwise earning the funds, when the school has reported full-time equivalent program counts in the October count, has an approved new school facility code issued by the department, and has reported a principal on the October certified personnel information report under the new facility code. It is further provided that funds for the salary of a principal shall not be earned under this paragraph for an evening school or alternative school; and

(5) Each local system shall earn funding for one nurse for every 750 full-time equivalent students at the elementary school level and one nurse for every 1,500 full-time equivalent students at the middle and high school levels. Such funding shall have a ratio of one registered professional nurse to five licensed practical nurses. Such funding shall be based on a contract length of 180 days and shall be sufficient to pay 50 percent of the average salary and benefits, as determined by the Department of Education, for a registered professional nurse or for a licensed practical nurse; provided, however, that such amount shall be phased in so that, in Fiscal Year 2013, such amount shall be 40 percent and, in Fiscal Year 2014, such amount shall be 45 percent. Local school systems shall not be required to provide any local matching funds for school nurses to receive funds pursuant to this paragraph. Local school systems that do not meet the minimum full-time equivalent student counts set out in this paragraph shall receive a base amount of funding. Each local school system shall expend 100 percent of the funds earned pursuant to this paragraph for salaries and benefits for school nurses.

(b) All program weights, when multiplied by the base amount, shall reflect sufficient funds to pay the beginning salaries of a visiting teacher using a base size of 2,475 full-time equivalent students, for costs of operating an administrative office for certain local school systems as deemed warranted by the department, and for workers' compensation and employment security payments for personnel at the central office, school, and program levels, subject to appropriation by the General Assembly. Further, the program weights for all special education programs pursuant to Code Section 20-2-152, when multiplied by the base amount, shall reflect sufficient funds to pay the beginning salaries of special education leadership personnel essential and necessary for the effective operation of such programs in a base size local school system. Further, the program weights for all programs, when multiplied by the base amount, shall reflect sufficient funds to pay the beginning salaries of school psychologists and psychometrists essential

and necessary for the effective operation of such programs in a local school system using a base size of 2,475 full-time equivalent students, subject to appropriation by the General Assembly; provided, however, that beginning with Fiscal Year 2016, such base size shall be 2,420 full-time equivalent students.

(c) Notwithstanding any provision of this Code section to the contrary, no local system shall earn funds under this Code section, except for funds for nurses, accountants, visiting teachers, school psychologists, and secretaries, if the local board of education has not implemented in a failing school within the system the interventions, as defined in Code Section 20-14-41, that are prescribed by the State Board of Education. (Code 1981, § 20-2-186, enacted by Ga. L. 1985, p. 1657, § 1; Ga. L. 1987, p. 1169, § 1; Ga. L. 1990, p. 847, § 5; Ga. L. 1993, p. 1667, § 2; Ga. L. 1995, p. 701, § 3; Ga. L. 2000, p. 618, § 29; Ga. L. 2012, p. 372, § 1/SB 403; Ga. L. 2013, p. 1061, § 14/HB 283.)

The 2013 amendment, effective July 1, 2013, added the third sentence in paragraph (a)(4); in subsection (b), substituted “students, for costs of operating an administrative office for certain local school systems as deemed warranted by the depart-

ment,” for “students and for costs of operating an administrative office for the local school system” in the first sentence, and added the proviso at the end of the last sentence.

PART 6

EMPLOYMENT

Subpart 1

Certificated Professional Personnel

20-2-200. Regulation of certificated professional personnel by Professional Standards Commission; rules and regulations; fees.

(a) The Professional Standards Commission shall provide, by regulation, for certifying and classifying all certificated professional personnel employed in the public schools of this state. No such personnel shall be employed in the public schools of this state unless they hold certificates issued by the commission certifying their qualifications and classification in accordance with such regulations. The commission shall establish such number of classifications of other certificated professional personnel as it may find reasonably necessary or desirable for the operation of the public schools; provided, however, that such classifications shall be based only upon academic, technical, and professional training, experience, and competency of such personnel. The commission is authorized to provide for denying a certificate to an

applicant, suspending or revoking a certificate, or otherwise disciplining the holder of a certificate for good cause after an investigation is held and notice and an opportunity for a hearing are provided the certificate holder or applicant in accordance with subsection (d) of Code Section 20-2-984.5. The commission shall designate and define the various classifications of professional personnel employed in the public schools of this state that shall be required to be certificated under this Code section or under Code Section 20-2-206. Without limiting the generality of the foregoing, the term “certificated professional personnel” is defined as all professional personnel certificated by the commission and county or regional librarians.

(b)(1) The Professional Standards Commission shall establish rules and regulations for appropriate requirements and procedures to ensure high-quality certification standards for all Georgia educators while facilitating the interstate mobility of out-of-state certified educators.

(2) Requirements established for initial certification applicants new to the profession, to include out-of-state program completers with or without certificates and with no teaching experience, may include, but are not limited to, demonstrated satisfactory proficiency in the following: a test of broad general knowledge; a test of specific subject matter content or other professional knowledge appropriate to the applicant’s field of certification; computer skill competency; standards of ethical conduct; and course work in the identification and education of children who have special educational needs; provided, however, that this paragraph shall not be construed to apply to alternative certification requirements as provided in Code Section 20-2-206.

(3) Requirements established for holders of valid, professional out-of-state certificates applying for their first Georgia certificate may include, but are not limited to the following: computer skill competency; course work in the identification and education of children who have special educational needs; recency of study; and standards of ethical conduct. These requirements may be completed during the validity period of the first Georgia certificate. At the time of application for the first Georgia certificate, satisfactory proficiency in subject matter content appropriate to the applicant’s field of certification may be determined based on Professional Standards Commission approved tests or combinations of successful teaching experience and academic, technical, and professional preparation as outlined in rules of the Professional Standards Commission.

(4) Requirements for certification renewal shall be established to foster ongoing professional learning, enhance student achievement, and verify standards of ethical conduct; provided, however, that from

July 1, 2010, through July 1, 2015, no professional learning requirements shall be required for certificate renewal for clear renewable certificates for certificated personnel or for certificate renewal for paraprofessionals. Such requirements may include, but are not limited to, professional learning related to school improvement plans or the applicant's field of certification and background checks. Should the Professional Standards Commission include a requirement to demonstrate computer skill competency, the rules and regulations shall provide that a certificated educator may elect to meet the requirement by receiving satisfactory results on a test in basic computer skill competency. If a certificated educator elects to take such test pursuant to this paragraph, the local school system by which such educator is employed shall make available the opportunity to take the test on site at the school in which the educator is assigned. Each principal shall identify an administrator on site at each school to serve as a proctor for individuals taking the test pursuant to this paragraph. Individuals holding a valid Georgia life certificate or a valid National Board for Professional Teaching Standards certificate shall be deemed to have met state renewal requirements except those related to background checks.

(4.1) Prior to July 1, 2015, the Professional Standards Commission shall revise its certification renewal rules established pursuant to paragraph (4) of this subsection, to require demonstration of the impact of professional learning on educator performance and student learning for purposes of certification renewal. Such revised rules shall be effective beginning July 1, 2015. As part of the revision process, the Professional Standards Commission shall establish a task force to determine the level of evidence necessary for educators to demonstrate the impact of professional learning and how such evidence will be collected and submitted for purposes of certificate renewal.

(5) Requirements designating approved in-field assignment standards appropriate to the applicant's field of certification shall be established to ensure that educators are assigned to those areas for which they are properly prepared. These standards may be determined based on reviews of state approved curriculum courses, state approved preparation programs, and designated certificate fields.

(c) An individual who has received any combination of two unsatisfactory, ineffective, or needs development annual summative performance evaluations in the previous five-year period pursuant to Code Section 20-2-210 shall not be entitled to a renewable certificate prior to demonstrating that such performance deficiency has been satisfactorily addressed, but such individual may apply to the commission for a nonrenewable certificate, as defined by the commission. Each local

school system and charter school shall report all unsatisfactory, ineffective, and needs development ratings of all performance evaluations as provided in Code Section 20-2-210 for certificated personnel in their employ in a manner, format, and frequency determined by the commission. The commission is authorized to release such data provided it cannot be personally identifiable to any currently or formerly certificated person.

(d) No applicant who is under review by the commission shall be allowed to withdraw his or her application for a certificate, permit, or other certification document without the written consent of the commission. The commission shall retain its authority over those applicants to proceed with the denial of the certificate, permit, or other certification document upon any ground provided by law, or to enter an order denying the certificate, permit, or other certification document upon any ground provided by law. The suspension or expiration of any certificate, permit, or certification document, or its surrender without the written consent of the commission, shall not deprive the commission of its authority to do any of the following:

- (1) Institute or continue a disciplinary proceeding against the holder of a certificate, permit, or other certification document upon any ground provided by law;
- (2) Enter an order suspending or revoking the certificate, permit, or other certification document; or
- (3) Issue an admonition to the holder of a certificate, permit, or other certification document.

(e)(1) The Professional Standards Commission shall charge the following fees to persons who file applications with the commission under its regulations adopted pursuant to the authority of this Code section:

(A) For an applicant for initial certification who is not currently employed in Georgia public or private schools	\$ 20.00
(B) For an applicant for initial certification who is not a graduate of an accredited education program from a Georgia college or university	20.00
(C) For an applicant for a higher certificate when the applicant then holds a Georgia certificate but who is not currently employed in Georgia public or private schools	20.00
(D) For an applicant for a certificate which adds a field or which endorses a certificate but who	

is not currently employed in Georgia public or private schools	20.00
(E) For an applicant for a conditional certificate ..	20.00
(F) For an applicant for the renewal of any certificate if the applicant is not currently employed by a public or private school in Georgia	20.00
(G) For evaluating transcripts where certificates are not issued and for issuing duplicate copies of certificates	20.00
(H) For an applicant for a clearance certificate pursuant to Code Section 20-2-211.1 who is not currently employed in Georgia public or private schools or who is not a graduate of an accredited education program from a Georgia college or university	20.00

(2) The fees provided for in paragraph (1) of this subsection shall be paid by an applicant by cashier’s check, money order, credit card, debit card, or other method as approved by the Professional Standards Commission as a condition for filing the application.

(3) The fees provided for in this subsection shall be paid by the commission into the general funds of the state. The commission shall adopt regulations to carry out the provisions of this subsection.

(f) As used in this part, unless the context indicates otherwise, the term “commission” means the Professional Standards Commission established under Part 10 of Article 17 of this chapter. (Code 1981, § 20-2-200, enacted by Ga. L. 1985, p. 1657, § 1; Ga. L. 1987, p. 1169, § 1; Ga. L. 1988, p. 1735, § 1; Ga. L. 1989, p. 1806, § 1; Ga. L. 1990, p. 1312, § 1; Ga. L. 1990, p. 1339, § 1; Ga. L. 1990, p. 1487, §§ 1, 2; Ga. L. 1991, p. 94, § 20; Ga. L. 1991, p. 1546, § 4; Ga. L. 1992, p. 2365, § 1; Ga. L. 1994, p. 801, § 1; Ga. L. 2000, p. 521, §§ 1, 2; Ga. L. 2000, p. 618, § 30; Ga. L. 2002, p. 397, § 1; Ga. L. 2003, p. 398, § 1; Ga. L. 2005, p. 60, § 20/HB 95; Ga. L. 2006, p. 534, § 1/HB 972; Ga. L. 2007, p. 259, § 3/SB 72; Ga. L. 2010, p. 237, §§ 1, 1D/HB 1079; Ga. L. 2010, p. 258, § 1/HB 1307; Ga. L. 2011, p. 511, § 1/HB 285; Ga. L. 2013, p. 1091, § 1/HB 244.)

The 2013 amendment, effective July 1, 2014, in subsection (c), in the first sentence, substituted “any combination of two unsatisfactory, ineffective, or needs development annual summative performance evaluations” for “two unsatisfactory annual performance evaluations”

near the beginning, and added “, as defined by the commission” at the end, and added the second and third sentences. See editor’s note for applicability.
Editor’s notes. — Ga. L. 2013, p. 1091, § 6/HB 244, not codified by the General Assembly, provides: “This Act shall be-

come effective on July 1, 2014, and shall be applicable beginning in school year 2014-2015.”

20-2-204. Paraprofessional and permitted personnel; classification of all certified or permitted personnel.

JUDICIAL DECISIONS

Equal protection of teachers and paraprofessionals. — Elementary school orchestra and band teachers’ equal protection claims failed because: (1) the school district had a rational basis for treating those teachers and Grades 1 through 3 paraprofessionals differently with regard to which employees would be retained since, inter alia, “teachers” and

“paraprofessionals” were treated differently under Georgia law; and (2) the district was not collaterally estopped from defending against the equal protection claims since the district was not subject to offensive, non-mutual collateral estoppel. *Demaree v. Fulton County Sch. Dist.*, No. 12-15900, 2013 U.S. App. LEXIS 6994 (11th Cir. Apr. 8, 2013) (Unpublished).

Subpart 2

Conditions of Employment

20-2-210. Annual performance evaluation.

(a) All personnel employed by local units of administration, including school superintendents, shall have their performance evaluated annually by appropriately trained evaluators. All such performance evaluation records shall be part of the personnel evaluation file and shall be confidential as provided pursuant to subsection (e) of this Code section. In the case of local school superintendents, such evaluations shall be performed by the local board of education. The state board may provide a model annual evaluation instrument for each classification of professional personnel certificated by the Professional Standards Commission. Unless otherwise provided by law, local units of administration are authorized to use the models developed by the State Board of Education.

(b)(1) No later than the 2014-2015 school year, each local school system and all charter schools shall implement an evaluation system as adopted and defined by the State Board of Education for elementary and secondary school teachers of record, assistant principals, and principals. The evaluation system shall be developed by the department in consultation with stakeholders, such as teachers and principals. The evaluation system shall use multiple measures, prioritizing growth in student achievement. For purposes of the evaluation system established pursuant to this subsection, the state board shall define and designate teachers of record, assistant principals, and principals.

(2) Teachers of record, assistant principals, and principals shall be evaluated using multiple, rigorous, and transparent measures. Beginning with the 2014-2015 school year, teachers of record, assistant principals, and principals shall be given written notice in advance of the school year of the evaluation measures and any specific indicators that will be used to evaluate them. Evaluation measures shall include the following elements:

(A) For teachers of record who teach courses that are subject to annual state assessments aligned with state standards and the principals and assistant principals of elementary or secondary schools that are subject to such assessments, growth in student achievement on such assessments shall count for at least 50 percent of the evaluation, using the student growth and academic achievement measures identified in the evaluation system;

(B) For teachers of record who teach courses not subject to annual state assessments, growth in student achievement shall be assessed through measures of student achievement growth developed at the school system level and approved by the Department of Education. When sufficient data becomes available from the department to calculate student achievement growth measures, such measures of student achievement growth shall count for at least 50 percent of the evaluation, using student growth and academic achievement measures developed by the school system in a process approved by the State Board of Education;

(C) For teachers of record, the annual evaluation shall also include multiple additional measures that shall be correlated with impacts on student achievement results. These measures shall include multiple classroom observations each year by appropriately trained and credentialed evaluators, using clear, consistent observation rubrics, and supplemented by other measures aligned with student achievement, including student perception data and documentation of practice; and

(D) For assistant principals and principals, the annual evaluation shall also include multiple additional measures that shall be aligned with impacts on student achievement results. These measures shall include multiple school observations each year by appropriately trained and credentialed evaluators. When sufficient data becomes available from the department to calculate performance measures, these measures shall also include the principal's ability to attract and retain highly effective teachers, effectively manage the school, and establish a positive climate for learning, and other measures aligned with student achievement for students in all subgroups.

(3) The evaluation system adopted by the State Board of Education shall give every teacher of record, assistant principal, and

principal one of four rating levels that are designated as “Exemplary,” “Proficient,” “Needs Development,” or “Ineffective,” as further defined by the State Board of Education. A rating of “Ineffective” shall constitute evidence of incompetency as provided by paragraph (1) of subsection (a) of Code Section 20-2-940.

(4) All teachers of record, assistant principals, and principals shall have a pre-evaluation conference, midyear evaluation conference, and a summative evaluation conference, in accordance with state board rules. All teachers of record, assistant principals, and principals shall be notified of and have access to the results of the annual summative performance evaluation and any formative observations conducted throughout the school year pursuant to this subsection within five working days of such evaluation or observations. A teacher of record, assistant principal, or principal, or an evaluator of any such individuals, may request a conference within ten working days of notice of results of a formative observation and such conference shall be provided within ten working days of the request. Conferences shall include the individual being evaluated, his or her supervisor, and the evaluator, unless otherwise agreed upon.

(5) In order to ensure proper implementation of the evaluation system developed pursuant to this Code section, the Department of Education shall:

(A) Establish processes and requirements to determine the teacher of record for purposes of assigning student achievement scores to a teacher in evaluating the teacher’s performance;

(B) Establish processes for roster verification and student teacher linkages in order to assign the student’s achievement scores to the teacher for the purposes of evaluating the teacher’s performance;

(C) Establish minimum training and credentialing requirements for evaluators of teachers and principals; and

(D) Provide data systems to support the professional growth of teachers and leaders and facilitate human capital management.

(c)(1) Except as otherwise provided in Code Section 20-2-948, local school systems shall base decisions regarding retention, promotion, compensation, dismissals, and other staffing decisions, including transfers, placements, and preferences in the event of reductions in force, primarily on the results of the evaluations developed as required by this subsection. Such evaluation results shall also be used to provide high-quality, job embedded, and ongoing mentoring, support, and professional development for teachers, assistant principals, and principals, as appropriate, aligned to the teacher’s, assis-

tant principal's, or principal's needs as identified in his or her evaluation.

(2) A teacher or other certificated professional personnel's salary increase or bonus that is based in whole or in part on an evaluation which included student assessment results, standardized test scores, or standardized test answers that were falsified by such teacher or professional or known or caused by such teacher or professional to have been falsified shall be automatically forfeited. A teacher or other certificated professional personnel shall forfeit his or her right or interest in such salary increase or bonus and shall be liable for the repayment of any and all amounts previously paid to him or her based, in whole or in part, on the results of falsified student assessment results, falsified standardized test scores, or falsified standardized test answers.

(d) The superintendent of each local school system shall identify an appropriately trained evaluator for each person employed by the local unit of administration for the purposes of completing an annual evaluation as required by this Code section. The superintendent of each local school system shall be responsible for ensuring compliance with this Code section.

(e)(1) All records, including surveys and evaluation instruments, associated with individual performance evaluations conducted pursuant to this Code section shall be confidential and not subject to public disclosure. Each local school system and charter school shall report performance data to the Georgia Department of Education in a format approved by the State Board of Education. The department is authorized to release performance data, except to the extent it is personally identifiable to any public school employee.

(2) Any current or former public school employee may execute a release authorizing the release of his or her individual performance data to a third party.

(3) The department may by agreement share individual data with the Office of Student Achievement for the purposes of improving postsecondary educator preparation so long as the office agrees that it will not disclose personally identifiable information about any public school employee.

(f) The State Board of Education is authorized to promulgate rules and regulations to carry out the provisions of this Code section. (Code 1981, § 20-2-210, enacted by Ga. L. 1985, p. 1657, § 1; Ga. L. 1987, p. 1169, § 1; Ga. L. 1988, p. 612, § 9; Ga. L. 1991, p. 1546, § 4; Ga. L. 1995, p. 1072, § 1; Ga. L. 1999, p. 438, § 3; Ga. L. 2000, p. 618, § 32; Ga. L. 2012, p. 111, § 1/HB 692; Ga. L. 2012, p. 358, § 9/HB 706; Ga. L. 2013, p. 1091, § 2/HB 244.)

The 2013 amendment, effective July 1, 2014, rewrote this Code section. See editor's note for applicability.

Editor's notes. — Ga. L. 2013, p. 1091, § 6/HB 244, not codified by the General

Assembly, provides: "This Act shall become effective on July 1, 2014, and shall be applicable beginning in school year 2014-2015."

20-2-211. Annual contract; disqualifying acts; job descriptions.

(a) All teachers, principals, other certificated professional personnel, and other personnel of a local unit of administration shall be employed and assigned by its governing board on the recommendation of its executive officer. Minimum qualifications for employment of all personnel may be prescribed by the State Board of Education unless otherwise provided by law. Employment contracts of teachers, principals, and other certificated professional personnel shall be in writing, and such contracts shall be signed in duplicate by such personnel on their own behalf and by the executive officer of the local unit of administration on behalf of its governing board.

(b) Any other provisions of this article or any other laws to the contrary notwithstanding, each local governing board shall, by not later than May 15 of the current school year, tender a new contract for the ensuing school year to each teacher and other professional employee certificated by the Professional Standards Commission on the payroll of the local unit of administration at the beginning of the current school year, except those who have resigned or who have been terminated as provided in Part 7 of Article 17 of this chapter, or shall notify in writing each such teacher or other certificated professional employee of the intention of not renewing his or her contract for the ensuing school year. Such contracts when tendered to each teacher or other professional employee shall be complete in all terms and conditions of the contract, including the amount of compensation to be paid to such teacher or other professional employee during the ensuing school year, and shall not contain blanks or leave any terms and conditions of the contract open. A letter of intent or similar document shall not constitute a contract and shall not be construed to require or otherwise legally bind the teacher or other professional employee to return to such school system. Upon request, a written explanation for failure to renew such contract shall be made available to such certificated personnel by the executive officer. When such notice of intended termination has not been given by May 15, the employment of such teacher or other certificated professional employee shall be continued for the ensuing school year unless the teacher or certificated professional employee elects not to accept such employment by notifying the local governing board or executive officer in writing not later than June 1.

(c) Any other provisions of this article or any other laws to the contrary notwithstanding, no local governing board shall employ any

person as a teacher who has been discharged from the armed forces of the United States with a dishonorable discharge as a result of desertion or any person who has fled or removed himself from the United States for the purpose of avoiding or evading military service in the armed forces of the United States, excluding those who have been fully pardoned.

(d) Each local school system shall have a job description for each certificated professional personnel classification, shall have policies and procedures relative to the recruitment and selection of such personnel, and shall adhere to such recruitment and selection policies and procedures. Such policies and procedures shall assure nondiscrimination on the basis of sex, race, religion, or national origin. Such policies and procedures shall also include the announcement in writing of the availability of all certificated positions within the local school system and the submission of such available positions to a state-wide online job data base maintained by the state. (Code 1981, § 20-2-211, enacted by Ga. L. 1985, p. 1657, § 1; Ga. L. 1987, p. 1169, § 1; Ga. L. 1991, p. 1546, § 4; Ga. L. 1994, p. 1936, § 1; Ga. L. 1995, p. 1072, § 2; Ga. L. 1997, p. 1390, § 1; Ga. L. 2000, p. 618, §§ 33, 34; Ga. L. 2003, p. 499, § 1; Ga. L. 2009, p. 4, § 1/HB 455; Ga. L. 2010, p. 2, § 1/HB 906; Ga. L. 2010, p. 237, § 1A/HB 1079; Ga. L. 2011, p. 647, § 6/HB 192; Ga. L. 2013, p. 1061, § 15/HB 283; Ga. L. 2013, p. 1091, § 3/HB 244.)

The 2013 amendments. — The first 2013 amendment, effective July 1, 2013, in subsection (d), in the third sentence, deleted “to the appropriate colleges and universities in the state and to the Department of Education and” following “certificated positions”, added “and the submission of such available positions to a state-wide online job data base maintained by the state” at the end, and deleted the former last sentence, which read: “A local board of education may also announce such positions to colleges and universities in other states.” The second 2013 amendment, effective July 1, 2014, in subsection (b), in the first sentence, substituted “May 15” for “April 15”, and deleted “; provided, however, that for school years 2010-2011, 2011-2012, 2012-2013, 2013-2014, and 2014-2015 only, each local

governing board shall have until May 15 of the current school year to tender such new contracts or provide such written notice” following “ensuing school year”, and, in the last sentence, deleted “April 15, or by” preceding “May 15”, deleted “for school years 2010-2011, 2011-2012, 2012-2013, 2013-2014, and 2014-2015 only” near the middle, deleted “May 1, or by” preceding “June 1” and deleted “for school years 2010-2011, 2011-2012, 2012-2013, 2013-2014, and 2014-2015 only” at the end. See editor’s note for applicability.

Editor’s notes. — Ga. L. 2013, p. 1091, § 6/HB 244, not codified by the General Assembly, provides: “This Act shall become effective on July 1, 2014, and shall be applicable beginning in school year 2014-2015.”

JUDICIAL DECISIONS

Equal protection of teachers and paraprofessionals. — Elementary school orchestra and band teachers’ equal protection claims failed because: (1) the

school district had a rational basis for treating those teachers and Grades 1 through 3 paraprofessionals differently with regard to which employees would be

retained since, inter alia, “teachers” and “paraprofessionals” were treated differently under Georgia law; and (2) the district was not collaterally estopped from defending against the equal protection

claims since the district was not subject to offensive, non-mutual collateral estoppel. *Demaree v. Fulton County Sch. Dist.*, No. 12-15900, 2013 U.S. App. LEXIS 6994 (11th Cir. Apr. 8, 2013) (Unpublished).

20-2-211.1. Clearance certificates issued by the Professional Standards Commission relating to fingerprint and criminal background checks.

(a) As used in this Code section, the term:

(1) “Clearance certificate” means a certificate issued by the Professional Standards Commission that verifies that an educator has completed fingerprint and criminal background check requirements as specified in this Code section and that the individual does not have a certificate that is currently revoked or suspended in Georgia or any other state; provided, however, that additional fingerprinting shall not be required for renewal of a clearance certificate or for educators who possess a professional educator certificate as of January 1, 2011. A clearance certificate shall be a renewable certificate valid for five years. Clearance certificates shall be subject to fees in accordance with subsection (e) of Code Section 20-2-200.

(2) “Educator” means a teacher, school or school system administrator, or other education personnel who would, if not exempted pursuant to a charter under Article 31 or 31A of this chapter or an increased flexibility contract under Article 4 of this chapter, be required to hold a professional educator certificate, license, or permit issued by the Professional Standards Commission and persons who have applied for but have not yet received such a certificate, license, or permit.

(3) “Local unit of administration” shall have the same meaning as in Code Section 20-2-242 and shall also include state chartered special schools and state charter schools.

(4) “Professional educator certificate” means a certificate, license, or permit issued by the Professional Standards Commission that is based upon academic, technical, and professional training, experience, and competency of such personnel as provided for under Code Section 20-2-200.

(b)(1) On and after January 1, 2011, all educators employed by a local unit of administration shall hold a valid clearance certificate; provided, however, that an educator who possesses a professional educator certificate as of January 1, 2011, shall not be required to obtain a clearance certificate until his or her professional educator certificate is up for renewal. A local unit of administration may

employ an educator who does not already hold a valid clearance certificate, provided the individual has applied for a clearance certificate, for a maximum of 20 days in order to allow for the receipt of the results of the criminal record check and issuance of the clearance certificate. The requirements of this Code section shall be in addition to professional educator certificate requirements unless such educator is employed by a school which is exempt from teacher certification requirements pursuant to a charter under Article 31 or 31A of this chapter or an increased flexibility contract under Article 4 of this chapter.

(2) Any other Code sections to the contrary notwithstanding, educators holding a valid clearance certificate shall be subject to the code of ethics for educators as established pursuant to Code Section 20-2-984.1 and shall be subject to Code Sections 20-2-984, 20-2-984.2, 20-2-984.3, 20-2-984.4, and 20-2-984.5.

(c) A local unit of administration shall ensure that all personnel employed by such local unit of administration after January 1, 2011, shall be fingerprinted and have a criminal record check performed. The local unit of administration shall have the authority to employ such person for a maximum of 20 days in order to allow for the receipt of the results of the criminal record check. The local unit of administration shall adopt policies to provide for the subsequent criminal record checks of personnel continued in employment in the local unit of administration.

(d)(1) Local units of administration shall have the authority and responsibility to order criminal record checks pursuant to this Code section through the Georgia Crime Information Center and the Federal Bureau of Investigation and shall have the authority to receive the results of such criminal record checks. Local units of administration shall also have the authority to forward the results of criminal record checks to the Professional Standards Commission as necessary regarding potential violations of the code of ethics for educators. The Professional Standards Commission shall also have the authority to order criminal record checks pursuant to this Code section through the Georgia Crime Information Center and the Federal Bureau of Investigation and shall have the authority to receive the results of such criminal record checks.

(2) Fingerprints shall be in such form and of such quality as shall be acceptable for submission to the Georgia Crime Information Center and the Federal Bureau of Investigation. It shall be the duty of each law enforcement agency in this state to fingerprint those persons required to be fingerprinted by this Code section.

(e) At the discretion of local units of administration, fees required for a criminal record check by the Georgia Crime Information Center or the

Federal Bureau of Investigation shall be paid by the local unit of administration or by the individual seeking employment or making application to the Professional Standards Commission.

(f) The Professional Standards Commission is authorized to adopt rules and regulations necessary to carry out the provisions of this Code section. (Code 1981, § 20-2-211.1, enacted by Ga. L. 2010, p. 237, § 1B/HB 1079; Ga. L. 2011, p. 511, § 3/HB 285; Ga. L. 2013, p. 1061, § 16/HB 283.)

The 2013 amendment, effective July 1, 2013, substituted “state charter schools” for “commission charter schools” in paragraph (a)(3).

20-2-212. Salary schedules.

(a) The State Board of Education shall establish a schedule of minimum salaries for services rendered which shall be on a ten-month basis and which shall be paid by local units of administration to the various classifications of professional personnel required to be certificated by the Professional Standards Commission. The minimum salary schedule shall provide a minimum salary base for each classification of professional personnel required to be certificated; shall provide for increment increases above the minimum salary base of each classification based upon individual experience and length of satisfactory service; and shall include such other uniformly applicable factors as the state board may find relevant to the establishment of such a schedule. The minimum salary base for certificated professional personnel with bachelor's degrees and no experience, when annualized from a ten-month basis to a 12 month basis, shall be comparable to the beginning salaries of the recent graduates of the University System of Georgia holding bachelor's degrees and entering positions, excluding professional educator teaching positions, in Georgia having educational entry requirements comparable to the requirements for entry into Georgia public school teaching. The placement of teachers on the salary schedule shall be based on certificate level and years of creditable experience, except that a teacher shall not receive credit for any year of experience in which the teacher received an unsatisfactory or ineffective annual summative performance evaluation or for the second year in which a teacher receives two consecutive annual summative needs development ratings pursuant to Code Section 20-2-210. The General Assembly shall annually appropriate funds to implement a salary schedule for certificated professional personnel. For each state fiscal year, the state board shall adopt the salary schedule for which funding has been appropriated by the General Assembly. A local unit of administration shall not pay to any full-time certificated professional employee a salary less than that prescribed by the schedule of minimum salaries, except as required by this Code section; nor shall a local

unit of administration pay to any part-time certificated professional employee less than a pro rata portion of the respective salary prescribed by the schedule of minimum salaries, except as required by this Code section. For purposes of this subsection, an educator's placement on the salary schedule shall not be based on a leadership degree, which shall mean a degree earned in conjunction with completion of an educator leadership preparation program approved by the Professional Standards Commission, unless the educator is employed in a leadership position as defined by the State Board of Education, but shall be placed on the salary schedule position attributable to the educator but for the leadership degree; provided, however, that this shall not apply, regardless of whether or not he or she is in a leadership position, to:

(1) An educator who possessed a leadership degree prior to July 1, 2010; or

(2) An educator who possessed:

(A) A master's level leadership degree prior to July 1, 2012;

(B) An education specialist level leadership degree prior to July 1, 2013; or

(C) A doctoral level leadership degree prior to July 1, 2014,

so long as he or she was enrolled in such leadership preparation program on or before April 1, 2009.

(b) Local units of administration may supplement the salaries of personnel subject to the schedule of minimum salaries under subsection (a) of this Code section and, in fixing the amount of those supplements, may take into consideration the nature of duties to be performed, the responsibility of the position held, the subject matter or grades to be taught, and the experience and performance of the particular employee whose salary is being supplemented. In any fiscal year in which such personnel receive an increase under the minimum salary schedule, a local unit of administration shall not decrease any local salary supplement for such personnel below the local supplement amount received in the immediately preceding fiscal year by those personnel of that local unit of administration unless such local unit of administration has conducted at least two public hearings regarding such decrease, notice of which hearings, including the time, place, agenda, and specific subject matter of the meeting, the local unit shall cause to be published in the legal organ of the county which is the legal situs of such local unit one time at least seven days prior to the date such hearings are to be held. Written notice shall be provided to each employee subject to the schedule of minimum salaries under subsection (a) of this Code section at least seven days prior to the date of the hearings. Each such hearing shall be held and shall commence after school hours to allow certificated and noncertificated personnel to attend.

(c) A local unit of administration shall pay beginning classroom teachers the first salary payment for the number of days worked at the end of the first month of the school year in which service is rendered. The State Board of Education shall develop rules and procedures for implementing this subsection by July 1, 2001. (Code 1981, § 20-2-212, enacted by Ga. L. 1985, p. 1657, § 1; Ga. L. 1987, p. 1169, § 1; Ga. L. 1988, p. 612, § 10; Ga. L. 1991, p. 1546, § 4; Ga. L. 1994, p. 782, § 1; Ga. L. 2000, p. 618, § 35; Ga. L. 2001, p. 1096, § 1; Ga. L. 2006, p. 469, § 1/HB 1483; Ga. L. 2009, p. 4, § 1B/HB 455; Ga. L. 2010, p. 426, § 1/HB 923; Ga. L. 2011, p. 752, § 20/HB 142; Ga. L. 2013, p. 1091, § 4/HB 244.)

The 2013 amendment, effective July 1, 2014, in subsection (a), in the fourth sentence, inserted “or ineffective annual summative” near the middle, and added “or for the second year in which a teacher receives two consecutive annual summative needs development ratings pursuant to Code Section 20-2-210” at the end. See editor’s note for applicability.

Editor’s notes. — Ga. L. 2013, p. 1091, § 6/HB 244, not codified by the General Assembly, provides: “This Act shall become effective on July 1, 2014, and shall be applicable beginning in school year 2014-2015.”

JUDICIAL DECISIONS

Equal protection of teachers and paraprofessionals. — Elementary school orchestra and band teachers’ equal protection claims failed because: (1) the school district had a rational basis for treating those teachers and Grades 1 through 3 paraprofessionals differently with regard to which employees would be retained since, inter alia, “teachers” and

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20-2-214.1. High Performance Principals program.

(a) The General Assembly finds that the driving force behind attracting quality teachers to a school and creating a culture of learning and respect in the school environment is the school leadership, and particularly, the school principal. The General Assembly further finds that teachers consider school leadership as one of the most important factors in creating good working conditions in a school environment. The General Assembly further finds that a school with strong leadership and teachers will be the most effective in improving and maintaining the academic success of its students.

(b) Reserved.

(c) The State Board of Education is authorized to establish a grant program to attract proven leaders in school settings to accept positions as principals in secondary schools in this state that have received

unacceptable ratings by the State Board of Education, as defined in state board rules relating to the accountability system. For purposes of this Code section, these individuals shall be known as High Performance Principals. The grant program shall include funding, subject to appropriations by the General Assembly, for grants from the state board to local boards of education for salary supplements for High Performance Principals.

(d) The state board is authorized to develop rules and regulations to implement the grant program, including requiring reports, data, or other measures of accountability. The grant program shall provide that the sole criteria for designating and selecting individuals as High Performance Principals shall be data based evidence of the effectiveness of a proposed High Performance Principal in improving a low performing school or in taking an average or excellent performing school to higher achievement within the last five years. Notwithstanding this, the state board shall have the discretion, only in extenuating circumstances, to consider other criteria. The state board shall be authorized to establish and maintain a nonexclusive pool of preapproved eligible candidates for High Performance Principals for consideration by local school systems.

(e) An individual selected as a High Performance Principal shall be eligible for a one-year salary supplement, in an amount as determined by the state board and subject to appropriations by the General Assembly. An individual grant shall not exceed \$15,000.00 per year and such amount shall be awarded pursuant to state board rule based on the relative recruitment need of that school. The local school system may apply for up to two additional school years for renewal of the High Performance Principal designation for an individual, subject to appropriation. An individual selected as a High Performance Principal shall be required to enter into a contract with the local board, in accordance with Code Section 20-2-211, which shall include terms and conditions relating to the designation of High Performance Principal, as required by the state board. An individual shall be required to reimburse the local board for any moneys paid to him or her relating to the High Performance Principal designation if he or she does not comply with the terms of the contract relating to the High Performance Principal designation.

(f) The local board shall be required to submit reports, as required by the state board, which quantify the effectiveness of an individual designated as a High Performance Principal and his or her impact on the improvement of the school in the school year in which he or she was designated a High Performance Principal. The state board shall use the data in the reports as the primary factor in evaluating applications for renewal of a High Performance Principal designation, as provided for in subsection (e) of this Code section.

(g) Salary supplements received by a High Performance Principal pursuant to this Code section shall not be considered regular or earnable compensation for any purpose.

(h) Nothing in this Code section shall prohibit local boards of education from providing additional salary supplements and bonuses to any principal designated as a High Performance Principal. (Code 1981, § 20-2-214.1, enacted by Ga. L. 2006, p. 179, § 1/SB 468; Ga. L. 2013, p. 1061, § 17/HB 283.)

The 2013 amendment, effective July 1, 2013, substituted the present provisions of subsection (b) for the former provisions, which read: “For purposes of this Code section, the term ‘Needs Improvement School’ means a school that has not made adequate yearly progress for two or more consecutive years in the same subject, in accordance with the accountability

system established pursuant to Article 2 of Chapter 14 of this title.”; substituted “received unacceptable ratings” for “been identified as a Needs Improvement School” in the first sentence of subsection (c); and substituted “school” for “Needs Improvement School” at the end of the second sentence of subsection (e).

PART 7

STAFF DEVELOPMENT

20-2-230. Programs.

(a) All public school officials and professional personnel certificated by the Professional Standards Commission shall be provided the opportunity to continue their development throughout their professional careers. The primary purpose of the staff development sponsored or offered by local boards of education and the Department of Education shall be the implementation of this policy. Two additional purposes of such staff development programs shall be to adopt into general practice the findings of scientifically designed research which has been widely replicated, particularly as it relates to teacher and school effectiveness, and to address professional needs and deficiencies identified during the process of objective performance evaluations.

(b)(1) The State Board of Education shall adopt a training program for members of local boards of education by July 1, 2011. The State Board of Education may periodically adopt revisions to such training program as it deems necessary.

(2) Within three months of adoption by the State Board of Education of a training program pursuant to paragraph (1) of this subsection, each local board of education shall adopt a training program for members of such boards that includes, at a minimum, such training program and requirements established by the State Board of Education pursuant to paragraph (1) of this subsection. Each local board of education shall incorporate any revisions adopted by the State Board

of Education to the training program pursuant to paragraph (1) of this subsection within three months of adoption of such revisions.

(3) All local boards of education are authorized to pay such board members for attendance at a required training program the same per diem as authorized by local or general law for attendance at regular meetings, as well as reimbursement of actual expenses for travel, lodging, meals, and registration fees for such training, either before or after such board members assume office. (Code 1981, § 20-2-250, enacted by Ga. L. 1985, p. 1657, § 1; Code 1981, § 20-2-230, as redesignated by Ga. L. 1987, p. 1169, § 1; Ga. L. 1988, p. 612, § 12; Ga. L. 1991, p. 1546, § 5; Ga. L. 1995, p. 304, § 4; Ga. L. 1996, p. 821, § 2; Ga. L. 1997, p. 1453, § 1; Ga. L. 2010, p. 452, § 10/SB 84; Ga. L. 2013, p. 1061, § 18/HB 283.)

The 2013 amendment, effective July 1, 2013, substituted “boards of education” for “units of administration” in the second sentence of subsection (a); deleted “and each governing board of other local units of administration” following “local board

of education” in the first sentence of paragraph (b)(2); and substituted “local boards of education are” for “boards of local units of administration are” near the beginning of paragraph (b)(3).

PART 9

GRANTS FOR EDUCATIONAL PROGRAMS

20-2-255. Petitions for charter school status.

Reserved. Repealed by Ga. L. 1998, p. 1080, § 1, effective July 1, 1998.

Editor’s notes. — Ga. L. 2013, p. 141, § 20/HB 79, reserved the designation of this Code section, effective April 24, 2013.

20-2-259. Extended day program for students in grades nine through 12.

The State Board of Education shall establish an extended day program for students in grades nine through 12. Subject to appropriation by the General Assembly, funding for extended day services shall be provided to local school systems through grants calculated as follows:

- (1) Divide the salary amount for an administrator, as calculated on a ten-month basis, by the base size for the high school general education program (9-12); and
- (2) Multiply the amount calculated in paragraph (1) of this Code section by the sum of the full-time equivalent program count for the high school general education program (9-12) and the career, technical, and agricultural education laboratory program (9-12).

Each year the state board shall request funds sufficient to provide for the development and supervision of an extended day program during the regular school year. (Code 1981, § 20-2-259, enacted by Ga. L. 2000, p. 618, § 42; Ga. L. 2013, p. 1061, § 19/HB 283.)

The 2013 amendment, effective July 1, 2013, substituted “career, technical, and agricultural education” for “vocational” in paragraph (2).

PART 10

CAPITAL OUTLAY FUNDS

20-2-261. Common minimum facility requirements.

(a) The State Board of Education shall establish common minimum facility requirements which each public school facility must meet in order to be certified for use in any component of the educational or recreational program of that school. Such minimum requirements shall include those provisions of law or state board policy on matters that relate to fire and physical safety; sanitation and health, including temperature and ventilation; minimum space, size, and configuration for the various components of the instructional program; and construction stability, quality, and suitability for intended uses. Such minimum requirements shall not prohibit wood construction that is otherwise in compliance with state minimum standard codes as they existed on January 1, 2014. As used in this subsection, the term “state minimum standard codes” shall have the same meaning as in paragraph (9) of Code Section 8-2-20.

(b) The State Board of Education shall adopt policies and procedures to ensure that each school facility meets minimum standards as determined by state board policy.

(c) A proposed plan of action which includes a list and description of each deficiency and time limits within which such deficiencies are to be corrected must be submitted to the State Board of Education for review and approval. Further, the state board shall have the authority, in accordance with Code Section 20-2-243, to withhold all or part of the state funds in support of this part from any local unit of administration refusing or failing to implement the plan of action for deficiency remediation approved by the state board.

(d) A local board of education shall be exempt from county and municipal assessments and fees for county and municipal building permits and inspections and exempt from county and municipal impact fees. (Code 1981, § 20-2-261, enacted by Ga. L. 1985, p. 1657, § 1; Ga. L. 1987, p. 1169, § 1; Ga. L. 1993, p. 541, § 1; Ga. L. 1995, p. 915, § 1; Ga. L. 2014, p. 813, § 1/SB 301.)

The 2014 amendment, effective July 1, 2014, added the third and fourth sentences in subsection (a).

20-2-263. Grant program to incentivize adoption of digital learning; rules and regulations.

(a) The State Board of Education is authorized to establish a grant program to incentivize the adoption of digital learning using high speed internet connections across Georgia schools. The grant program shall include funding, subject to appropriations by the General Assembly, for grants to local boards of education for the purchase of technology capital, including, but not limited to, desktop computers, network equipment, wireless equipment, tablet computers, laptop computers, and any other technology devices or equipment that advances student learning.

(b) The state board is authorized to develop rules and regulations to implement the grant program, including requiring local school systems to commit to expanding and paying for high speed bandwidth for five years and a plan of use of the bandwidth in each school for instructional purposes, requiring each local school system to demonstrate that it has a technology plan that incorporates the use of new technology into student learning and includes a component for professional development for staff, and requiring local matching funds from local school systems to demonstrate long-term sustainability. The grant program criteria may take into account the financial need and lack of existing bandwidth of a local school system and any previous grants received by the local board of education pursuant to this Code section and may provide for waiver of the matching funds requirement for local school systems that demonstrate financial need. (Code 1981, § 20-2-263, enacted by Ga. L. 2013, p. 1061, § 20/HB 283.)

Effective date. — This Code section became effective July 1, 2013.

PART 14

OTHER EDUCATIONAL PROGRAMS

20-2-307. Youth camps; food-processing and young farmers programs.

The State Board of Education shall have authority to provide for the operation of youth camps, food-processing programs, and young farmer programs. The state board shall annually determine the amount of funds needed to provide the programs described in this Code section and shall annually request from the General Assembly such appropri-

ations as are needed. (Code 1981, § 20-2-300, enacted by Ga. L. 1985, p. 1657, § 1; Code 1981, § 20-2-307, as redesignated by Ga. L. 1987, p. 1169, § 1; Ga. L. 2013, p. 141, § 20/HB 79.)

The 2013 amendment, effective April 24, 2013, part of an Act to revise, modernize, and correct the Code, substituted “in this Code section” for “in this subsection” in the middle of the last sentence.

20-2-311. State Board of Postsecondary Vocational Education.

Reserved. Repealed by Ga. L. 1988, p. 1252, § 1, effective July 1, 1988.

Editor’s notes. — Ga. L. 2013, p. 141, § 20/HB 79, reserved the designation of this Code section, effective April 24, 2013.

20-2-316.2. Financial reporting by athletic associations.

(a) As used in this Code section, the term “athletic association” means any association of schools or any other similar organization which acts as an organizing, sanctioning, scheduling, or rule-making body for interscholastic athletic events in which public schools in this state participate.

(b) No high school which receives funding under this article shall participate in, sponsor, or provide coaching staff for interscholastic sports events which are conducted under the authority of, conducted under the rules of, or scheduled by any athletic association unless such athletic association annually publishes and provides to its members a financial report of its activities for the preceding calendar year or fiscal year, if different from the calendar year, within 90 days after the end of such calendar year or fiscal year. Such report shall include a complete financial statement setting forth its assets, liabilities, income, and operating expenses for such calendar year or fiscal year. (Code 1981, § 20-2-316.2, enacted by Ga. L. 2014, p. 368, § 1/SB 288.)

Effective date. — This Code section became effective July 1, 2014.

letics Overview Committee, § 20-2-2100 et seq.

Cross references. — High School Ath-

20-2-319.3. Online clearing-house of interactive distance learning courses.

(a) This Code section shall be known and may be cited as the “Online Clearing-house Act.”

(b) As used in this Code section, the term:

(1) “Charter school” means a local charter school, as defined in paragraph (7) of Code Section 20-2-2062, a state chartered special

school, as defined in paragraph (16) of Code Section 20-2-2062, and a state charter school, as defined in paragraph (2) of Code Section 20-2-2081.

(2) “Clearing-house” means the clearing-house established pursuant to subsection (b) of this Code section.

(3) “One credit” and “half-credit” mean the customary academic unit of credit granted for secondary school courses in this state.

(4) “Student’s school system” means the local school system operating the school in which the student is lawfully enrolled.

(c)(1) The department shall establish a clearing-house of interactive distance learning courses and other distance learning courses delivered via a computer based method offered by local school systems and charter schools for sharing with other local school systems and charter schools for the fee set pursuant to subsection (e) of this Code section. The department shall review the content of each course prior to including it in the clearing-house to ensure that it meets state curriculum standards. The department is authorized to approve courses for inclusion in the clearing-house if the content meets state curriculum standards, the applicant meets all technical requirements, and the course is delivered by a highly qualified teacher who exhibits exceptional teaching skills and methodology as certified by the local school system or charter school, which teacher’s credentials and skills shall be subject to review and approval by the department.

(2) To offer a course through the clearing-house, a local school system or charter school shall apply to the department in a form and manner prescribed by the department. The application for each course shall describe the course of study in as much detail as required by the department, the qualification and credentials of the teacher, the number of hours of instruction, the technology required to deliver and receive the course, the technical capacity of the local school system or charter school to deliver the course, the times that the local school system or charter school plans to deliver the course, and any other information required by the department. The department may require local school systems and charter schools to include in their applications information recommended by the State Board of Education.

(3) The department shall review the technical specifications of each application submitted pursuant to paragraph (2) of this subsection and shall determine if the local school system or charter school can satisfactorily deliver the course through the technology necessary for that delivery. All such courses shall be delivered only in accordance with technical specifications approved by the department.

(4) The department may request additional information from a local school system or charter school that submits an application

pursuant to paragraph (2) of this subsection, if the department determines that such information is necessary. The department may negotiate changes in the proposal to offer a course, if the department determines that changes are necessary in order to approve the course.

(5) The department shall catalog each course approved for the clearing-house, through a print or electronic medium, displaying the following:

(A) Information necessary for a student and the student's parent, guardian, or custodian and the student's school system or the student's charter school to decide whether to enroll in the course; and

(B) Instructions for enrolling in that course, including deadlines for enrollment.

(6) The department shall identify the copyright owner of each course in the catalog and shall assist local school systems and charter schools in understanding the process of registering copyrights and other protections of intellectual property under federal law, if requested.

(d)(1) A student who is enrolled in a school operated by a local school system or in a charter school may enroll in a course included in the clearing-house only if both of the following conditions are satisfied:

(A) The student's enrollment in the course is approved by the student's school system or the student's charter school; and

(B) The student's school system or the student's charter school agrees to accept for credit the grade assigned by the local school system or charter school delivering the course.

(2) For each student enrolling in a course, the student's school system or the student's charter school shall transmit the student's identification number and the student's name to the local school system or charter school delivering the course. The school system or charter school delivering the course may request from the student's school system or the student's charter school other information from the student's school record. The student's school system or the student's charter school shall provide the requested information only in accordance with state law.

(3) The student's school system or the student's charter school shall determine the manner in which and facilities at which the student shall participate in the course consistent with specifications for technology and connectivity adopted by the department.

(4) A student may withdraw from a course prior to the end of the course only by a date and in a manner prescribed by the student's school system or the student's charter school.

(5) A student who is enrolled in a school operated by a local school system or in a charter school and who takes a course included in the clearing-house shall be counted in the funding formula of the student's school system or the student's charter school for such course as if the student were taking the course from the student's school system or the student's charter school.

(e)(1) The department shall set appropriate fees for one-credit and half-credit courses offered by a local school system or a charter school to another local school system or charter school pursuant to this Code section.

(2) The department shall proportionally reduce the fee for any student who withdraws from a course prior to the end of the course pursuant to paragraph (4) of subsection (d) of this Code section.

(3) For each student enrolled in a course included in the clearing-house, and not later than the last day of that course, the department shall deduct the amount of the fee for that course from the student's school system or charter school allotment and shall pay that amount to the local school system or charter school delivering the course.

(4) From the funds received pursuant to paragraph (3) of this subsection, the local school system or charter school delivering the course shall pay the teacher conducting the course such additional amount of compensation based on the number of students taking the course and the course fee.

(f) The grade for a student who enrolls in a course included in the clearing-house shall be assigned by the local school system or charter school that delivers the course and shall be transmitted by that school system or charter school to the student's school system or the student's charter school.

(g) The department may determine the manner in which a course included in the clearing-house may be offered as a dual enrollment program, may be offered to students who are enrolled in nonpublic schools or a home study program pursuant to Code Section 20-2-690, or may be offered at times outside the normal school day or school week, including any necessary additional fees and methods of payment for a course so offered.

(h) The department shall promulgate rules and regulations for the implementation of this Code section. The department may coordinate the clearing-house established pursuant to this Code section with the

Georgia Virtual School established pursuant to Code Section 20-2-319.1.

(i) Nothing in this Code section shall prohibit a local school system or charter school from offering an interactive distance learning course or other distance learning course using a computer based method through any means other than the clearing-house established and maintained under this Code section. (Code 1981, § 20-2-319.3, enacted by Ga. L. 2012, p. 660, § 1/HB 175; Ga. L. 2013, p. 141, § 20/HB 79; Ga. L. 2013, p. 1061, § 21/HB 283.)

The 2013 amendments. — The first 2013 amendment, effective April 24, 2013, part of an Act to revise, modernize, and correct the Code, revised punctuation in this Code section. The second 2013 amendment, effective July 1, 2013, substituted “state charter school” for “commission charter school” in paragraph (b)(1); inserted “for such course” near the middle of paragraph (d)(5); added “offered by a local school system or a charter school to another local school system or charter school pursuant to this Code section” in paragraph (e)(1); and deleted “as set by the department” following “amount of compensation” in paragraph (e)(4).

PART 15

MISCELLANEOUS PROVISIONS

20-2-320. Education Information Steering Committee; identification of data to implement Quality Basic Education Program; state-wide comprehensive educational information network.

(a) There shall be a state-wide comprehensive educational information system which will provide for the accurate, seamless, and timely flow of information from local and regional education agencies, units of the University System of Georgia, and technical schools and colleges to the state. The system design shall include hardware, software, data, collection methods and times, training, maintenance, communications, security of data, and installation specifications and any other relevant specifications needed for the successful implementation of the system. The state-wide comprehensive educational information system shall not use a student's social security number or an employee's social security number in violation of state or federal law to identify a student or employee. Upon approval of the boards of the respective education agencies, such boards shall issue appropriate requests for proposals to implement a state-wide comprehensive educational information system, subject to appropriation by the General Assembly. The boards of the respective education agencies, at the direction of the Education Coordinating Council, shall initiate contracts with appropriate vendors and local units of administration for the procurement of services, purchase of hardware and software, and for any other purpose as

directed by the Education Coordinating Council, consistent with appropriation by the General Assembly.

(b) The State Board of Education, the State Board of the Technical College System of Georgia, the Board of Regents of the University System of Georgia, and the Department of Early Care and Learning shall require an individual student record for each student enrolled which at a minimum includes the data specifications recommended by the steering committee and approved by the Education Coordinating Council. The Professional Standards Commission shall maintain an individual data record for each certificated person employed in a public school.

(c) For the purpose of this article, authorized educational agencies shall be the Department of Education; the Department of Early Care and Learning; the Board of Regents of the University System of Georgia; the Technical College System of Georgia; the Education Coordinating Council; the Professional Standards Commission; the Office of Student Achievement; the education policy and research components of the office of the Governor; the Office of Planning and Budget; the Senate Budget and Evaluation Office; the House Budget and Research Office; the House Research Office; and the Senate Research Office. Any information collected over the state-wide comprehensive educational information system, including individual student records and individual personnel records, shall be accessible by authorized educational agencies, provided that any information which is planned for collection over the system but which is temporarily being collected by other means shall also be accessible by authorized educational agencies and provided, further, that adequate security provisions are employed to protect the privacy of individuals. All data maintained for this system shall be used for educational purposes only. In no case shall information be released by an authorized educational agency which would violate the privacy rights of any individual student or employee. Information released by an authorized educational agency in violation of the privacy rights of any individual student or employee shall subject the authorized educational agency to all penalties under applicable state and federal law. Any information collected over the state-wide comprehensive educational information system which is not stored in an individual student or personnel record format shall be made available to the Governor and the House and Senate Appropriation Committees, the House Committee on Education, the Senate Education and Youth Committee, the House Committee on Higher Education, and the Senate Higher Education Committee, except information otherwise prohibited by statute. Data which are included in an individual student record or individual personnel record format shall be extracted from such records and made available in nonindividual record format for use by the Governor, committees of the General Assembly, and agencies other than authorized educational agencies.

(d) The Department of Education shall request sufficient funds annually for the operation, training of appropriate personnel, and maintenance and enhancements of the system.

(e) In a phased approach, the state-wide comprehensive educational information system shall be fully completed subject to appropriation by the General Assembly for this purpose. During the phased implementation of the system, highest priority shall be given to the electronic transmission of complete full-time equivalent counts, the uniform budgeting and accounting system, and complete salary data for each local school system. All pre-kindergarten programs, local units of administration for grades kindergarten through 12, technical schools and colleges, public libraries, public colleges and universities, and regional educational service agencies shall provide data as required by their respective boards and agencies. Notwithstanding any provision of this Code section to the contrary, no local school system shall earn funds under Code Section 20-2-186 for superintendents, assistant superintendents, or principals if the local unit of administration fails to comply with the provisions of this Code section.

(f) Notwithstanding any other provision of law, the Department of Education is authorized to and shall obtain and provide to the Department of Public Safety, in a form to be agreed upon between the Department of Education and the Department of Public Safety, enrollment, attendance, and suspension information regarding minors 15 through 17 years of age reported pursuant to Code Sections 20-2-690 and 20-2-697, to be used solely for the purposes set forth in subsection (a.1) of Code Section 40-5-22. (Code 1981, § 20-2-306, enacted by Ga. L. 1985, p. 1657, § 1; Code 1981, § 20-2-320, as redesignated by Ga. L. 1987, p. 1169, § 1; Ga. L. 1988, p. 1848, § 3; Ga. L. 1990, p. 1256, § 3; Ga. L. 1997, p. 760, § 3; Ga. L. 2000, p. 618, § 58; Ga. L. 2001, p. 4, § 20; Ga. L. 2004, p. 107, § 8; Ga. L. 2004, p. 645, § 16; Ga. L. 2005, p. 60, § 20/HB 95; Ga. L. 2005, p. 798, § 5/SB 35; Ga. L. 2008, p. VO1, § 1-10/HB 529; Ga. L. 2008, p. 335, § 2/SB 435; Ga. L. 2008, p. 1015, § 7/SB 344; Ga. L. 2011, p. 632, § 3/HB 49; Ga. L. 2014, p. 866, § 20/SB 340.)

The 2014 amendment, effective April 29, 2014, part of an Act to revise, modernize, and correct the Code, in subsection (c), in the first sentence, substituted "Senate Budget and Evaluation Office" for "Senate Budget Office", substituted "House Budget and Research Office" for "House Budget Office", and substituted "House and Senate Appropriation Committees, the

House Committee on Education, the Senate Education and Youth Committee, the House Committee on Higher Education, and the Senate Higher Education Committee" for "House and Senate Appropriations, Education, Education and Youth, and Higher Education committees" in the last sentence.

20-2-324.1. Concussion management and return to play policies for youth athletes.

(a) As used in this Code section, the term:

(1) “Health care provider” means a licensed physician or another licensed individual under the supervision of a licensed physician, such as a nurse practitioner, physician assistant, or certified athletic trainer who has received training in concussion evaluation and management.

(2) “Public recreation facility” means a public facility that conducts an organized youth athletic activity in which a participation fee and registration are required.

(3) “Youth athlete” means a participant in a youth athletic activity who is seven years of age or older and under 19 years of age.

(4) “Youth athletic activity” means an organized athletic activity in which the majority of the participants are youth athletes and are engaging in an organized athletic game or competition against another team, club, or entity or in practice or preparation for an organized game or competition against another team, club, or entity. This term shall not include college or university activities or an activity which is entered into for instructional purposes only, an athletic activity that is incidental to a nonathletic program, youth athletic activities offered through a church or synagogue, or a lesson; provided, however, that colleges, universities, churches, and synagogues, and any other entities that conduct youth athletic activities but are not subject to this Code section are strongly encouraged to establish and implement a concussion management and return to play policy.

(b) Each local board of education, administration of a nonpublic school, and governing body of a charter school shall adopt and implement a concussion management and return to play policy comprising not less than the following components:

(1) Prior to the beginning of each athletic season of a youth athletic activity, provide an information sheet to all youth athletes’ parents or legal guardians which informs them of the nature and risk of concussion and head injury;

(2) If a youth athlete participating in a youth athletic activity exhibits symptoms of having a concussion, that athlete shall be removed from the game, competition, tryout, or practice and be evaluated by a health care provider; and

(3) If a youth athlete is deemed by a health care provider to have sustained a concussion, the coach or other designated personnel shall

not permit the youth athlete to return to play until the youth athlete receives clearance from a health care provider for a full or graduated return to play.

(c) Each public recreation facility shall, at the time of registration for a youth athletic activity, provide an information sheet to all youth athletes’ parents or legal guardians which informs them of the nature and risk of concussion and head injury; provided, however, that public recreation facilities are strongly encouraged to establish and implement a concussion management and return to play policy.

(d) The Department of Public Health shall endorse one or more concussion recognition education courses to inform Georgia citizens of the nature and risk of concussions in youth athletics, at least one of which shall be available online. Such course or courses may include education and training materials made available, at no charge, by the federal Centers for Disease Control and Prevention or other training materials substantively and substantially similar to such materials.

(e) This Code section shall not create any liability for, or create a cause of action against, a local board of education, the governing body of a nonpublic school, the governing body of a charter school, or a public recreation facility or the officers, employees, volunteers, or other designated personnel of any such entities for any act or omission to act related to the removal or nonremoval of a youth athlete from a game, competition, tryout, or practice pursuant to this Code section; provided, however, that for purposes of this subsection, other designated personnel shall not include health care providers unless they are acting in a volunteer capacity. (Code 1981, § 20-2-324.1, enacted by Ga. L. 2013, p. 89, § 2/HB 284.)

Effective date. — This Code section became effective January 1, 2014. Assembly, provides: “This Act shall be known and may be referred to as the

Editor’s notes. — Ga. L. 2013, p. 89, § 1/HB 284, not codified by the General ‘Return to Play Act of 2013.’”

PART 16

BUILDING RESOURCEFUL INDIVIDUALS TO DEVELOP GEORGIA’S ECONOMY

20-2-326. Definitions.

For purposes of this part, the term:

(1) “Articulation” means agreement between a high school and a postsecondary institution regarding the awarding of both secondary and postsecondary credit for a dual enrollment course.

(2) “Choice technical high school” means a high school, other than the high school to which a student is assigned by virtue of his or her

residence and attendance zone, which is designed to prepare a high school student for postsecondary education and for employment in a career field. A choice technical high school may be operated by a local school system or a technical school or college. A choice technical high school may also be operated as a charter school under a governance board composed of parents, employers, and representatives from the local board of education.

(3) “Chronically low-performing high school” means a public high school in this state that has a graduation rate of less than 60 percent for three consecutive years, as determined in accordance with methodology established by the National Governors Association’s Compact on High School Graduation Data, or that has received an unacceptable rating for three consecutive years, as defined by the Office of Student Achievement.

(4) “College and career academy” means a specialized charter school established by a partnership which demonstrates a collaboration between business, industry, and community stakeholders to advance workforce development between one or more local boards of education, a private individual, a private organization, or a state or local public entity in cooperation with one or more postsecondary institutions and approved by the State Board of Education in accordance with Article 31 of this chapter or the State Charter Schools Commission in accordance with Article 31A of this chapter.

(5) “Focused program of study” means a rigorous academic core combined with a focus in mathematics and science; a focus in humanities, fine arts, and foreign language; or a coherent sequence of career pathway courses that is aligned with graduation requirements established by the State Board of Education and curriculum requirements established pursuant to Part 2 of this article that prepares a student for postsecondary education or immediate employment after high school graduation.

(6) “Graduation plan” means a student specific plan developed in accordance with subsection (c) of Code Section 20-2-327 detailing the courses necessary for a high school student to graduate from high school and to successfully transition to postsecondary education and the work force.

(7) “Industry certification” means a process of program evaluation that ensures that individual programs meet industry standards in the areas of curriculum, teacher qualification, lab specifications, equipment, and industry involvement.

(8) “Public college or university” means a two-year or four-year college, university, or other institution under the auspices of the Board of Regents of the University System of Georgia.

(9) “Small learning community” means an autonomous or semiautonomous small learning environment within a large high school which is made up of a subset of students and teachers for a two-year, three-year, or four-year period. The goal of a small learning community is to achieve greater personalization of learning with each community led by a principal or instructional leader. A small learning community blends academic studies around a broad career or academic theme where teachers have common planning time to connect teacher assignments and assessments to college and career readiness standards. Students voluntarily apply for enrollment in a small learning community but must be accepted, and such enrollment must be approved by the student’s parent or guardian. A small learning community also includes a college and career academy organized around a specific career theme which integrates academic and career instruction, provides work based learning opportunities, and prepares students for postsecondary education and employment, with support through partnerships with local employers, community organizations, and postsecondary institutions.

(10) “Teacher adviser system” means a system where an individual professional educator in the school assists a small group of students and their parents or guardians throughout the students’ high school careers to set postsecondary goals and help them prepare programs of study, utilizing assessments and other data to track academic progress on a regular basis; communicates frequently with parents or guardians; and provides advisement, support, and encouragement as needed.

(11) “Technical school or college” means a school, college, institution, or other branch of the Technical College System of Georgia. (Code 1981, § 20-2-326, enacted by Ga. L. 2010, p. 186, § 1/HB 400; Ga. L. 2011, p. 421, § 2/SB 161; Ga. L. 2011, p. 752, § 20/HB 142; Ga. L. 2012, p. 775, § 20/HB 942; Ga. L. 2013, p. 1061, § 22/HB 283.)

The 2013 amendment, effective July 1, 2013, substituted “received an unacceptable rating” for “not made adequate yearly progress” near the end of para-

graph (3); and substituted “State Charter Schools Commission” for “Georgia Charter Schools Commission” near the end of paragraph (4).

20-2-327. Recognition of advanced proficiency/honors courses; counseling and development of individual graduation plans.

(a) Student performance at the advanced proficiency/honors level on any assessments required for purposes of high school graduation shall be recognized as:

- (1) Meeting postsecondary entrance test requirements; and

(2) Qualifying students to enroll in credit-bearing postsecondary course work in accordance with policies and requirements established by the State Board of Education, the Board of Regents of the University System of Georgia, and the State Board of the Technical College System of Georgia.

(b) Secondary and postsecondary credit shall be awarded immediately upon successful completion of any articulated or dual enrollment course in accordance with policies and requirements established by the State Board of Education, the Board of Regents of the University System of Georgia, and the State Board of the Technical College System of Georgia.

(c) Beginning with the 2010-2011 school year, students in the sixth, seventh, and eighth grades shall be provided counseling, advisement, career awareness, career interest inventories, and information to assist them in evaluating their academic skills and career interests. Before the end of the second semester of the eighth grade, students shall develop an individual graduation plan in consultation with their parents, guardians, or individuals appointed by the parents or guardians to serve as their designee. High school students shall be provided guidance, advisement, and counseling annually that will enable them to successfully complete their individual graduation plans, preparing them for a seamless transition to postsecondary study, further training, or employment. An individual graduation plan shall:

(1) Include rigorous academic core subjects and focused course work in mathematics and science or in humanities, fine arts, and foreign language or sequenced career pathway course work;

(2) Incorporate provisions of a student's Individualized Education Program (IEP), where applicable;

(3) Align educational and broad career goals and a student's course of study;

(4) Be based on the student's selected academic and career focus area as approved by the student's parent or guardian;

(5) Include experience based, career oriented learning experiences which may include, but not be limited to, participation in work based learning programs such as internships, apprenticeships, cooperative education, service learning, and employability skill development;

(6) Include opportunities for postsecondary studies through articulation, dual enrollment, and joint enrollment;

(7) Be flexible to allow change in the course of study but be sufficiently structured to meet graduation requirements and qualify the student for admission to postsecondary education; and

(8) Be approved by the student and the student's parent or guardian with guidance from the student's school counselor or teacher adviser.

An individual graduation plan shall be reviewed annually, and revised, if appropriate, upon approval by the student and the student's parent or guardian with guidance from the student's school counselor or teacher adviser. An individual graduation plan may be changed at any time throughout a student's high school career upon approval by the student and the student's parent or guardian with guidance from the student's school counselor or teacher adviser. (Code 1981, § 20-2-327, enacted by Ga. L. 2010, p. 186, § 1/HB 400; Ga. L. 2011, p. 632, § 3/HB 49; Ga. L. 2011, p. 752, § 20/HB 142; Ga. L. 2014, p. 341, § 4/HB 766.)

The 2014 amendment, effective July 1, 2014, substituted the present provisions of paragraph (c)(5) for the former provisions, which read: "Include experience based, career oriented learning experiences which may include, but not be limited to, internships, apprenticeships,

mentoring, co-op education, and service learning;"

Editor's notes. — Ga. L. 2014, p. 341, § 1/HB 766, not codified by the General Assembly, provides: "This Act shall be known and may be cited as the 'Work Based Learning Act.'"

20-2-329. Requirements for high schools that receive a reform grant.

High schools that receive a reform grant pursuant to Code Section 20-2-328 shall:

(1) Provide focused programs of study which are designed to provide a well-rounded education for students by fostering artistic creativity, critical thinking, and self-discipline through the teaching of academic content, knowledge, and skills that students will use in the workplace, further education, and life. The focused programs of study, whether provided at a choice technical high school, a college and career academy, a traditional high school, or on site at a technical school or college or a public college or university, shall be aligned with graduation requirements established by the State Board of Education and curriculum requirements established pursuant to Part 2 of this article, including, at a minimum, four years of mathematics, Algebra I and higher, and four years of English, with an emphasis on developing reading and writing skills to meet college and career readiness standards;

(2) Implement a teacher adviser system;

(3) Provide students in the ninth through twelfth grades information on educational programs offered in high school, in technical and community colleges, in colleges and universities, and through work based learning programs and how these programs can lead to a

variety of career fields. Local school systems shall provide career awareness and exploratory opportunities such as field trips, speakers, educational and career information centers, job shadowing, and classroom centers to assist students and their parents or guardians, with guidance from school counselors and teacher advisers, in revising, if appropriate, the individual graduation plan developed pursuant to subsection (c) of Code Section 20-2-327;

(4) Enroll students no later than ninth grade into one of the following options for earning a high school diploma and preparing students for postsecondary education and a career which will include a structured program of academic study with in-depth studies in:

- (A) Mathematics and science;
- (B) Humanities, fine arts, and foreign language; or
- (C) A career pathway that leads to passing an employer certification exam in a high demand, high skill, or high wage career field or to an associate's degree or bachelor's degree.

The awarding of a special education diploma to any disabled student who has not completed all of the requirements for a high school diploma, but who has completed his or her Individualized Education Program (IEP) shall be deemed to meet the requirements of this paragraph;

(5) Implement the at-risk model program developed by the State Board of Education pursuant to subsection (b) of Code Section 20-2-328;

(6) Comply with the rules and regulations promulgated by the State Board of Education for chronically low-performing high schools pursuant to subsection (c) of Code Section 20-2-328; and

(7) Schedule annual conferences to assist students and their parents or guardians in setting educational and career goals and creating individual graduation plans beginning with students in the eighth grade and continuing through high school. These conferences shall include, but are not limited to, assisting the student in identifying educational and career interests and goals, selecting a career and academic focus area, and developing an individual graduation plan. (Code 1981, § 20-2-329, enacted by Ga. L. 2010, p. 186, § 1/HB 400; Ga. L. 2011, p. 421, § 4/SB 161; Ga. L. 2014, p. 341, § 5/HB 766.)

The 2014 amendment, effective July 1, 2014, in paragraph (3), substituted “work based learning” for “apprenticeship” in the first sentence and substituted “provide career awareness and explor-

atory opportunities such as” for “provide opportunities for” near the middle of the second sentence.

Editor’s notes. — Ga. L. 2014, p. 341, § 1/HB 766, not codified by the General

Assembly, provides: "This Act shall be known and may be cited as the 'Work Based Learning Act.'"

PART 17

STATE EDUCATION FINANCE STUDY COMMISSION

20-2-329.2 through 20-2-329.8.

Repealed by Ga. L. 2011, p. 647, § 1/HB 192, effective March 31, 2013.

Editor's notes. — Former Code Section 20-2-329.2 pertained to the Georgia Education Leadership Academy. The former Code section was based on Ga. L. 1985, p. 1657, § 3 and was repealed by Ga. L. 1985, p. 1657, § 4, effective July 1 1986.

This part consisted of Code Sections 20-2-329.2 through 20-2-329.8, relating to the state education finance study commission, and was based on Code 1981, § 20-2-329.2 through 20-2-329.8, enacted by Ga. L. 2011, p. 647, § 1/HB 192.

ARTICLE 9

LOCAL PUBLIC SCHOOL FINANCES

PART 2

RECEIPT AND DISBURSEMENT OF FUNDS

20-2-411. School fund kept separate; use of funds; separation of school taxes; investments.

When the public school fund shall be received and receipted for, it shall be the duty of the officers authorized by law to receive such fund and keep it separate and distinct from other funds. The school funds shall be used for educational purposes and may be used to pay the salaries of personnel and to pay for the utilization of school facilities, including school buses, for extracurricular and interscholastic activities, including literary events, music and athletic programs within individual schools and between schools in the same or in different school systems when such activities are sponsored by local boards of education as an integral part of the total school program, and for no other purpose. When taxes are paid into the state treasury, the comptroller general shall in no case receipt a tax collector for them until that part of the tax so paid in which was raised for school purposes is separated in amount from the gross amount paid in. It shall be lawful to invest school funds in securities of the states, United States, or municipalities of this state or in certificates of deposit. (Ga. L. 1919, p. 288, § 115; Code 1933, § 32-942; Ga. L. 1969, p. 721, § 1; Ga. L. 1975, p. 94, § 1; Ga. L. 1985, p. 149, § 20; Ga. L. 2013, p. 141, § 20/HB 79.)

The 2013 amendment, effective April 23, 2014, part of an Act to revise, modernize, and correct the Code, revised language in this Code section.

ARTICLE 13

SUSPENDING AND REOPENING LOCAL SCHOOL SYSTEMS

20-2-620 through 20-2-627.

Reserved. Repealed by Ga. L. 1990, p. 1344, § 1, effective July 1, 1990.

Editor’s notes. — Ga. L. 2014, p. 866, § 20/SB 340, effective April 29, 2014, reserved the designation of this article.

ARTICLE 16

STUDENTS

PART 1

SCHOOL ATTENDANCE

Subpart 1

Transfer Students

20-2-670. Requirements for transferring students beyond sixth grade; conditional admission; compliance.

- (a) A transferring student applying for admission to a grade higher than the sixth grade shall as a prerequisite to admission present a certified copy of his or her academic transcript and disciplinary record from the school previously attended.
- (b) In lieu of complying with the provision of subsection (a) of this Code section, a transferring student may be admitted on a conditional basis if he or she and his or her parent or legal guardian execute a document providing the name and address of the school last attended and authorizing the release of all academic and disciplinary records to the school administration. The parent or guardian shall be notified of the transfer of such records and shall, upon written request made within ten days of such notice, be entitled to receive a copy of such records. Within five days of the receipt of a copy of such records, the parent or guardian may make a written request for and shall be entitled to a hearing before the principal of the school or his or her designee which is the custodian of such records for the purpose of challenging the content of the records. The student or his or her parent

or legal guardian shall also disclose on the same document as the release whether the child has ever been adjudicated guilty of the commission of a class A designated felony act or class B designated felony act, as defined in Code Section 15-11-2 and, if so, the date of such adjudication, the offense committed, the jurisdiction in which such adjudication was made, and the sentence imposed. Any form document to authorize the release of records which is provided by a school to a transferring student or such student's parent or legal guardian shall include a list of class A designated felony acts or class B designated felony acts. The student or his or her parent or legal guardian shall also disclose on the document whether the student is currently serving a suspension or expulsion from another school, the reason for such discipline, and the term of such discipline. If a student so conditionally admitted is found to be ineligible for enrollment pursuant to the provisions of Code Section 20-2-751.2, or is subsequently found to be so ineligible, he or she shall be dismissed from enrollment until such time as he or she becomes so eligible.

(c) Every school system in this state shall be obligated to provide complete information to a requesting school pursuant to subsection (b) of this Code section within ten days of receipt of such request. (Code 1981, § 20-2-670, enacted by Ga. L. 1997, p. 1061, § 1; Ga. L. 1998, p. 128, § 20; Ga. L. 2000, p. 20, § 15; Ga. L. 2013, p. 294, § 4-33/HB 242.)

The 2013 amendment, effective January 1, 2014, in subsection (b), substituted "execute a document" for "executes a document" in the first sentence, inserted "class A" in the fourth and fifth sentences, inserted "or class B designated felony act," and substituted "Code Section 15-11-2" for "Code Section 15-11-63" in the fourth sentence, and added "or class B designated felony acts" at the end of the fifth sentence. See editor's note for applicability.

Editor's notes. — Ga. L. 2013, p. 294, § 5-1/HB 242, not codified by the General Assembly, provides that: "This Act shall become effective on January 1, 2014, and

shall apply to all offenses which occur and juvenile proceedings commenced on and after such date. Any offense occurring before January 1, 2014, shall be governed by the statute in effect at the time of such offense and shall be considered a prior adjudication for the purpose of imposing a disposition that provides for a different penalty for subsequent adjudications, of whatever class, pursuant to this Act. The enactment of this Act shall not affect any prosecutions for acts occurring before January 1, 2014, and shall not act as an abatement of any such prosecutions."

20-2-671. Transfer students who have committed felony acts; disclosure of act.

If any school administrator determines from the information obtained pursuant to Code Section 15-11-602 or 20-2-670 or from any other source that a student has committed a class A designated felony act or class B designated felony act, as defined in Code Section 15-11-2, such administrator shall so inform all teachers to whom the student is assigned that they may review the information in the student's file provided pursuant to subsection (b) of Code Section 20-2-670 received

from other schools or from the juvenile courts. Such information shall be kept confidential. (Code 1981, § 20-2-671, enacted by Ga. L. 1997, p. 1061, § 1; Ga. L. 2000, p. 20, § 16; Ga. L. 2013, p. 294, § 4-34/HB 242.)

The 2013 amendment, effective January 1, 2014, in the first sentence, substituted “Code Section 15-11-602” for “Code Section 15-11-63”, inserted “class A”, and inserted “or class B designated felony act, as defined in Code Section 15-11-2”. See editor’s note for applicability.

Editor’s notes. — Ga. L. 2013, p. 294, § 5-1/HB 242, not codified by the General Assembly, provides that: “This Act shall become effective on January 1, 2014, and shall apply to all offenses which occur and juvenile proceedings commenced on and

after such date. Any offense occurring before January 1, 2014, shall be governed by the statute in effect at the time of such offense and shall be considered a prior adjudication for the purpose of imposing a disposition that provides for a different penalty for subsequent adjudications, of whatever class, pursuant to this Act. The enactment of this Act shall not affect any prosecutions for acts occurring before January 1, 2014, and shall not act as an abatement of any such prosecutions.”

Subpart 2

Compulsory Attendance

20-2-690. Educational entities; requirements for private schools and home study programs.

(a) This subpart recognizes the existence of public schools, private schools, and home study programs as educational entities.

(b) As used in this subpart, the term “private school” means an institution meeting the following criteria or requirements:

(1) The primary purpose of the institution is to provide education or, if the primary purpose of the institution is religious in nature, the institution shall provide the basic academic educational program specified in paragraph (4) of this subsection;

(2) The institution is privately controlled and operates on a continuing basis;

(3) The institution provides instruction each 12 months for the equivalent of 180 school days of education with each school day consisting of at least four and one-half school hours;

(4) The institution provides a basic academic educational program which includes, but is not limited to, reading, language arts, mathematics, social studies, and science;

(5) Within 30 days after the beginning of each school year, it shall be the duty of the administrator of each private school to provide to the school superintendent of each local public school district which has residents enrolled in the private school a list of the name, age, and residence of each resident so enrolled. At the end of each school

month, it shall be the duty of the administrator of each private school to notify the school superintendent of each local public school district of the name, age, and residence of each student residing in the public school district who enrolls or terminates enrollment at the private school during the immediately preceding school month. Such records shall indicate when attendance has been suspended and the grounds for such suspension. Enrollment records and reports shall not be used for any purpose except providing necessary enrollment information, except with the permission of the parent or guardian of a child, pursuant to the subpoena of a court of competent jurisdiction, or for verification of attendance by the Department of Driver Services for the purposes set forth in subsection (a.1) of Code Section 40-5-22; and

(6) Any building used by the institution for private school purposes meets all health and safety standards established under state law and local ordinances.

(c) Parents or guardians may teach their children at home in a home study program which meets the following requirements:

(1) The parent, parents, or guardian must submit within 30 days after the establishment of a home study program and by September 1 annually thereafter a declaration of intent to utilize a home study program to the Department of Education, which shall provide for written or electronic submittal of such declaration of intent;

(2) The declaration shall include a list of the names and ages of the students who are enrolled in the home study program, the address where the home study program is located, and a statement of the 12 month period that is to be considered the school year for that home study program. Enrollment records and reports shall not be used for any purpose except providing necessary enrollment information, except with the permission of the parent or guardian of a child, or pursuant to the subpoena of a court of competent jurisdiction;

(3) Parents or guardians may teach only their own children in the home study program, provided the teaching parent or guardian possesses at least a high school diploma or a general educational development diploma, but the parents or guardians may employ a tutor who holds a high school diploma or a general educational development diploma to teach such children;

(4) The home study program shall provide a basic academic educational program which includes, but is not limited to, reading, language arts, mathematics, social studies, and science;

(5) The home study program must provide instruction each 12 months to home study students equivalent to 180 school days of education with each school day consisting of at least four and one-half

school hours unless the child is physically unable to comply with the rule provided for in this paragraph;

(6) The parent or guardian shall have the authority to execute any document required by law, rule, regulation, or policy to evidence the enrollment of a child in a home study program, the student's full-time or part-time status, the student's grades, or any other required educational information. This shall include, but not be limited to, documents for purposes of verification of attendance by the Department of Driver Services, for the purposes set forth in subsection (a.1) of Code Section 40-5-22, documents required pursuant to Chapter 2 of Title 39 relating to employment of minors, and any documents required to apply for the receipt of state or federal public assistance;

(7) Students in home study programs shall be subject to an appropriate nationally standardized testing program administered in consultation with a person trained in the administration and interpretation of norm reference tests to evaluate their educational progress at least every three years beginning at the end of the third grade and records of such tests and scores shall be retained but shall not be required to be submitted to public educational authorities; and

(8) The home study program instructor shall write an annual progress assessment report which shall include the instructor's individualized assessment of the student's academic progress in each of the subject areas specified in paragraph (4) of this subsection, and such progress reports shall be retained by the parent, parents, or guardian of children in the home study program for a period of at least three years.

(d) Any person who operates a private school without complying with the requirements of subsection (b) of this Code section or any person who operates a home study program without complying with the requirements of subsection (c) of this Code section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed \$100.00.

(e) The State Board of Education shall devise, adopt, and make available to local school superintendents, who shall in turn make available to administrators of private schools and parents or guardians with children in home study programs, such printed forms and procedures as may be reasonably necessary to carry out efficiently the reporting provisions of this Code section, but such printed forms and procedures shall not be inconsistent with or exceed the requirements of this Code section. (Code 1981, § 20-2-690, enacted by Ga. L. 1984, p. 1266, § 1; Ga. L. 1985, p. 149, § 20; Ga. L. 1986, p. 10, § 20; Ga. L. 1997, p. 760, § 4; Ga. L. 2001, p. 4, § 20; Ga. L. 2004, p. 945, § 1; Ga. L. 2012, p. 358, § 30/HB 706; Ga. L. 2012, p. 648, § 1/HB 39; Ga. L. 2013, p. 141 § 20/HB 79; Ga. L. 2013, p. 1061, § 23/HB 283.)

The 2013 amendments. — The first 2013 amendment, effective April 24, 2013, part of an Act to revise, modernize, and correct the Code, substituted “Department of Driver Services” for “Department of Public Safety” in the last sentence of paragraph (b)(5) and in paragraphs (c)(2) and (c)(6). The second 2013 amendment, effective July 1, 2013, substituted “which shall provide for written or electronic” for “which may provide for electronic” in paragraph (c)(1); in paragraph (c)(2), in the second sentence, inserted “or” preceding “pursuant”, and deleted “, or for verification of attendance by the Department of Public Safety for the purposes set forth in subsection (a.1) of Code Section 40-5-22” at the end; and substituted the present provisions of paragraph (c)(6) for the former provisions, which read: “Attendance records for the home study program shall be kept and shall be submitted annually to the Department of Education and additionally, in accordance with department regulations for purposes of verification of attendance by the Department of Public Safety, for the purposes set forth in subsection (a.1) of Code Section

40-5-22. The department may provide for electronic submittal of such records. Attendance records and reports shall not be used for any purpose except providing necessary attendance information, except with the permission of the parent or guardian of a child, pursuant to the subpoena of a court of competent jurisdiction, or for verification of attendance by the Department of Public Safety for the purposes set forth in subsection (a.1) of Code Section 40-5-22”. See the editor’s note regarding the effect of these amendments.

Editor’s notes. — Ga. L. 2013, p. 141, § 54(f)/HB 79, not codified by the General Assembly, provides: “In the event of a conflict between a provision in Sections 1 through 53 of this Act and a provision of another Act enacted at the 2013 regular session of the General Assembly, the provision of such other Act shall control over the conflicting provisions in Sections 1 through 53 of this Act to the extent of the conflict.” Accordingly, the amendment to paragraph (c)(2) of this Code section by Ga. L. 2013, p. 141, § 20(7)/HB 79 was not given effect.

20-2-690.1. Mandatory education for children between ages six and 16.

JUDICIAL DECISIONS

Constitutionality. — Defendant’s challenge to the constitutionality of O.C.G.A. § 20-2-690.1 failed because the statute clearly punished the unjustified failure to send a child to school for whom one was responsible, did not violate equal protection, and was reasonably related to

the legitimate governmental interest of ensuring children were educated, and the delegation of power to the Board of Education was accompanied by sufficient guidelines directing the Board to consider sickness and other emergencies. *Pitts v. State*, 293 Ga. 511, 748 S.E.2d 426 (2013).

20-2-690.2. Establishment of student attendance protocol committee; membership and protocol; summary of penalties for failure to comply; reporting.

(a) The chief judge of the superior court of each county shall establish a student attendance protocol committee for its county. The purpose of the committee shall be to ensure coordination and cooperation among officials, agencies, and programs involved in compulsory attendance issues, to reduce the number of unexcused absences from school, and to increase the percentage of students present to take tests which are required to be administered under the laws of this state. The chief judge

is responsible for ensuring that all members of the committee are notified of their responsibility to the committee and shall call the first meeting of the committee in each county. The committee shall elect a chairperson and may elect other officers.

(b) Each local board of education shall participate in, consider, and make publicly available, including but not limited to posting in a conspicuous location, its decision regarding the recommendations of the committee as provided in this Code section. Independent school systems may participate in the committee in the county where the system is located. Independent school systems whose geographic area encompasses more than one county may select one of such counties in which to participate. An independent school system that elects not to participate in the committee of the county where it is located shall request that the chief judge of the superior court of a county encompassed by its geographic area to establish an independent student attendance protocol committee in the same manner as established for the county school system.

(c) Each of the following agencies, officials, or programs shall designate a representative to serve on the committee:

- (1) The chief judge of the superior court;
- (2) The juvenile court judge or judges of the county;
- (3) The district attorney for the county;
- (4) The solicitor-general of state court, if the county has a state court;
- (5) The Department of Juvenile Justice, which may include representatives from area juvenile detention facilities as defined in Code Section 49-4A-1;
- (6) The superintendent, a certificated school employee, and a local school board member from each public school system in the county and a certificated school social worker from each public school system, if any are employed by the school system;
- (7) The sheriff of the county;
- (8) The chief of police of the county police department;
- (9) The chief of police of each municipal police department in the county;
- (10) The county department of family and children services;
- (11) The county board of health;
- (12) The county mental health organization;

(13) The county Family Connection commission, board, or authority, or other county agency, board, authority, or commission having the duty and authority to study problems of families, children, and youth and provide services to families, children, and youth; and

(14) The court approved community based risk reduction program established by the juvenile court in accordance with Code Section 15-11-38, if such a program has been established.

(d) The committee thus established may appoint such additional members as necessary and proper to accomplish the purposes of the committee.

(e) Each committee shall, by June 1, 2005, adopt a written student attendance protocol for its county school system and for each independent school system within its geographic boundaries which shall be filed with the Department of Education. The protocol shall outline in detail the procedures to be used in identifying, reporting, investigating, and prosecuting cases of alleged violations of Code Section 20-2-690.1, relating to mandatory school attendance. The protocol shall outline in detail methods for determining the causes of failing to comply with compulsory attendance and appropriately addressing the issue with children and their parents or guardians. The protocol shall also include recommendations for policies relating to tardiness. The Department of Education shall provide model school attendance protocols, if requested by the committee.

(f) A copy of the protocol shall be furnished to each agency, official, or program within the county that has any responsibility in assisting children and their parents or guardians in complying with Code Section 20-2-690.1.

(g) The committee shall write the summary of possible consequences and penalties for failing to comply with compulsory attendance under Code Section 20-2-690.1 for children and their parents, guardians, or other persons who have control or charge of children for distribution by schools in accordance with Code Section 20-2-690.1. The summary of possible consequences for children shall include possible dispositions for children in need of services and possible denial or suspension of a driver's license for a child in accordance with Code Section 40-5-22.

(h) The committee shall continue in existence after writing the student attendance protocol. The chief judge of the superior court of each county shall ensure that the committee meets at least quarterly during the first year, and twice annually thereafter, to evaluate compliance with the protocol, effectiveness of the protocol, and appropriate modifications.

(i) Each local board of education shall report student attendance rates to the committee and the State Board of Education at the end of

each school year, according to a schedule established by the State Board of Education. (Code 1981, § 20-2-690.2, enacted by Ga. L. 2004, p. 107, § 11; Ga. L. 2013, p. 294, § 4-35/HB 242.)

The 2013 amendment, effective January 1, 2014, substituted “juvenile detention facilities as defined in Code Section 49-4A-1” for “youth detention centers or regional youth detention centers” in paragraph (c)(5); substituted “Code Section 15-11-38” for “Code Section 15-11-10” in paragraph (c)(14); and substituted “children in need of services” for “unruly children” in the last sentence of subsection (g). See editor’s note for applicability.

Editor’s notes. — Ga. L. 2013, p. 294, § 5-1/HB 242, not codified by the General Assembly, provides that: “This Act shall become effective on January 1, 2014, and

shall apply to all offenses which occur and juvenile proceedings commenced on and after such date. Any offense occurring before January 1, 2014, shall be governed by the statute in effect at the time of such offense and shall be considered a prior adjudication for the purpose of imposing a disposition that provides for a different penalty for subsequent adjudications, of whatever class, pursuant to this Act. The enactment of this Act shall not affect any prosecutions for acts occurring before January 1, 2014, and shall not act as an abatement of any such prosecutions.”

20-2-693. Exemptions.

JUDICIAL DECISIONS

Cited in *Pitts v. State*, 293 Ga. 511, 748 S.E.2d 426 (2013).

20-2-699. Disposition of children taken into custody.

Any person assuming temporary custody of a child pursuant to Code Section 20-2-698 shall immediately deliver the child either to the parent, guardian, or other person having control or charge of the child or to the school from which the child is absent, or if the child is found to have been adjudged a delinquent child or a child in need of services, the person shall cause the child to be brought before the probation officer of the county having jurisdiction over such child. (Ga. L. 1976, p. 768, § 1; Ga. L. 1994, p. 97, § 20; Ga. L. 2013, p. 294, § 4-36/HB 242.)

The 2013 amendment, effective January 1, 2014, substituted “delinquent child or a child in need of services, the person shall” for “delinquent or unruly, he shall” near the middle. See editor’s note for applicability.

Editor’s notes. — Ga. L. 2013, p. 294, § 5-1/HB 242, not codified by the General Assembly, provides that: “This Act shall become effective on January 1, 2014, and shall apply to all offenses which occur and juvenile proceedings commenced on and

after such date. Any offense occurring before January 1, 2014, shall be governed by the statute in effect at the time of such offense and shall be considered a prior adjudication for the purpose of imposing a disposition that provides for a different penalty for subsequent adjudications, of whatever class, pursuant to this Act. The enactment of this Act shall not affect any prosecutions for acts occurring before January 1, 2014, and shall not act as an abatement of any such prosecutions.”

PART 2

DISCIPLINE

Subpart 2

Public School Disciplinary Tribunals

20-2-751. Definitions.

As used in this subpart, the term:

(1) “Dangerous weapon” shall have the same meaning as set forth in Code Section 16-11-121.

(2) “Expulsion” means expulsion of a student from a public school beyond the current school quarter or semester.

(3) “Firearm” shall have the same meaning as set forth in Code Section 16-11-127.1.

(4) “Hazardous object” means any dirk, bowie knife, switchblade knife, ballistic knife, any other knife having a blade of two or more inches, straight-edge razor, razor blade, spring stick, knuckles, whether made from metal, thermoplastic, wood, or other similar material, blackjack, any bat, club, or other bludgeon-type weapon, or any flailing instrument consisting of two or more rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nun chahka, nun chuck, nunchaku, shuriken, or fighting chain, or any disc, of whatever configuration, having at least two points or pointed blades which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart, or any instrument of like kind, any nonlethal air gun, and any stun gun or taser as defined in subsection (a) of Code Section 16-11-106. Such term shall not include any of these instruments used for classroom work authorized by the teacher.

(5) “Long-term suspension” means the suspension of a student from a public school for more than ten school days but not beyond the current school quarter or semester.

(6) “Short-term suspension” means the suspension of a student from a public school for not more than ten school days. (Ga. L. 1979, p. 663, § 2; Ga. L. 1995, p. 1072, § 3; Ga. L. 2014, p. 432, § 1-3/HB 826.)

The 2014 amendment, effective July 1, 2014, added paragraph (1); redesignated former paragraph (1) as present paragraph (2); added paragraphs (3) and (4); redesignated former paragraphs (2)

and (3) as present paragraphs (5) and (6), respectively; and deleted former paragraph (4), which read: “‘Weapon’ means a firearm as such term is defined in Section 921 of Title 18 of the United States Code.”

20-2-751.1. Expulsion and disciplinary policy for students bringing weapons to school.

(a) Each local board of education shall establish a policy, pursuant to this subpart, regarding a student's possession of a firearm, dangerous weapon, or hazardous object at school. With respect to a student who is determined to have possessed a firearm or dangerous weapon at school, such policy shall require expulsion from school for a period of not less than one calendar year; provided, however, that a hearing officer, tribunal, panel, administrator, superintendent, or local board of education shall have the authority to modify such expulsion requirement on a case-by-case basis.

(b) A hearing officer, tribunal, panel, superintendent, or local board of education shall be authorized to place a student determined to have brought a firearm, dangerous weapon, or hazardous object to school in an alternative educational setting.

(c) Nothing in this Code section shall infringe on any right provided to students with Individualized Education Programs pursuant to the federal Individuals with Disabilities Education Act, Section 504 of the federal Rehabilitation Act of 1973, or the federal Americans with Disabilities Act. (Code 1981, § 20-2-751.1, enacted by Ga. L. 1995, p. 1072, § 4; Ga. L. 2014, p. 432, § 1-4/HB 826.)

The 2014 amendment, effective July 1, 2014, substituted the present provisions of subsection (a) for the former provisions, which read: "Each local board of education shall establish a policy requiring the expulsion from school for a period of not less than one calendar year of any student who is determined, pursuant to this subpart, to have brought a weapon to school."; deleted former subsection (b),

which read: "The local board of education shall have the authority to modify such expulsion requirement as provided in subsection (a) of this Code section on a case-by-case basis."; redesignated former subsections (c) and (d) as present subsections (b) and (c), respectively; and, in present subsection (b), near the end, inserted "firearm, dangerous" and inserted ", or hazardous object".

20-2-751.2. Students subject to disciplinary orders of other school systems.

(a) As used in this Code section, the term "disciplinary order" means any order of a local school system in this state, a private school in this state, or a public school outside of this state which imposes short-term suspension, long-term suspension, or expulsion upon a student in such system or school.

(b) A local board of education which has a student who attempts to enroll or who is enrolled in any school in its school system during the time in which that student is subject to a disciplinary order is authorized to refuse to enroll or subject that student to short-term suspension, long-term suspension, or expulsion for any time remaining

in that other school system's or school's disciplinary order upon receiving a certified copy of such order if the offense which led to such suspension or expulsion in the other school system or school was an offense for which suspension or expulsion could be imposed in the enrolling school.

(c) A local school system or school may request of another school system or school whether any disciplinary order has been imposed by the other school system or school upon a student who is seeking to enroll or is enrolled in the requesting system or school. If such an order has been imposed and is still in effect for such student, the requested school system or private school in this state shall so inform the requesting system or school and shall provide a certified copy of the order to the requesting system or school.

(d) If any school administrator determines from the information obtained pursuant to this Code section or from Code Section 15-11-599, 15-11-602, or 15-11-707 that a student has been convicted of or has been adjudicated to have committed an offense which is a class A designated felony act or class B designated felony act under Code Section 15-11-2, such administrator shall so inform all teachers to whom the student is assigned and other school personnel to whom the student is assigned. Such teachers and other certificated professional personnel as the administrator deems appropriate may review the information in the student's file provided pursuant to this Code section that has been received from other schools or from the juvenile courts or superior courts. Such information shall be kept confidential. (Code 1981, § 20-2-751.2, enacted by Ga. L. 1995, p. 1340, § 4; Ga. L. 1996, p. 6, § 20; Ga. L. 1997, p. 1436, § 4; Ga. L. 2000, p. 20, § 17; Ga. L. 2004, p. 107, § 13; Ga. L. 2013, p. 294, § 4-37/HB 242.)

The 2013 amendment, effective January 1, 2014, in subsection (d), in the first sentence, substituted "Code Section 15-11-599, 15-11-602, or 15-11-707" for "Code Section 15-11-28 or 15-11-80" near the beginning and, near the middle, inserted "class A" and inserted "or class B designated felony act", and substituted "Code Section 15-11-2" for "Code Section 15-11-63". See editor's note for applicability.

Editor's notes. — Ga. L. 2013, p. 294, § 5-1/HB 242, not codified by the General Assembly, provides that: "This Act shall become effective on January 1, 2014, and

shall apply to all offenses which occur and juvenile proceedings commenced on and after such date. Any offense occurring before January 1, 2014, shall be governed by the statute in effect at the time of such offense and shall be considered a prior adjudication for the purpose of imposing a disposition that provides for a different penalty for subsequent adjudications, of whatever class, pursuant to this Act. The enactment of this Act shall not affect any prosecutions for acts occurring before January 1, 2014, and shall not act as an abatement of any such prosecutions."

20-2-751.4. Policies prohibiting bullying; assignment to alternative school; notice.

Law reviews. — For comment, “Pacifism in a Dog-Eat-Dog World: Potential Solutions to School Bullying,” see 64 Mercer L. Rev. 753 (2013).

20-2-751.5. Student codes of conduct; safety rules on school buses; distribution.

(a) Each student code of conduct shall contain provisions that address the following conduct of students during school hours, at school related functions, and on the school bus in a manner that is appropriate to the age of the student:

(1) Verbal assault, including threatened violence, of teachers, administrators, and other school personnel;

(2) Physical assault or battery of teachers, administrators, and other school personnel;

(3) Disrespectful conduct toward teachers, administrators, and other school personnel, including use of vulgar or profane language;

(4) Verbal assault of other students, including threatened violence or sexual harassment as defined pursuant to Title IX of the Education Amendments of 1972;

(5) Physical assault or battery of other students, including sexual harassment as defined pursuant to Title IX of the Education Amendments of 1972;

(6) Disrespectful conduct toward other students, including use of vulgar or profane language;

(7) Verbal assault of, physical assault or battery of, and disrespectful conduct, including use of vulgar or profane language, toward persons attending school related functions;

(8) Failure to comply with compulsory attendance as required under Code Section 20-2-690.1;

(9) Willful or malicious damage to real or personal property of the school or to personal property of any person legitimately at the school;

(10) Inciting, advising, or counseling of others to engage in prohibited acts;

(11) Marking, defacing, or destroying school property;

(12) Possession of a firearm, as provided for in Code Section 16-11-127.1, and possession of a dangerous weapon or hazardous object;

- (13) Unlawful use or possession of illegal drugs or alcohol;
- (14) Willful and persistent violation of the student code of conduct;
- (15) Bullying as defined by Code Section 20-2-751.4;
- (16) Marking, defacing, or destroying the property of another student; and
- (17) Falsifying, misrepresenting, omitting, or erroneously reporting information regarding instances of alleged inappropriate behavior by a teacher, administrator, or other school employee toward a student.

With regard to paragraphs (9), (11), and (17) of this subsection, each student code of conduct shall also contain provisions that address conduct of students during off-school hours.

(b)(1) In addition to the requirements contained in subsection (a) of this Code section, each student code of conduct shall include comprehensive and specific provisions prescribing and governing student conduct and safety rules on all public school buses. The specific provisions shall include but not be limited to:

(A) Students shall be prohibited from acts of physical violence as defined by Code Section 20-2-751.6, bullying as defined by subsection (a) of Code Section 20-2-751.4, physical assault or battery of other persons on the school bus, verbal assault of other persons on the school bus, disrespectful conduct toward the school bus driver or other persons on the school bus, and other unruly behavior;

(B) Students shall be prohibited from using any electronic devices during the operation of a school bus, including but not limited to cell phones; pagers; audible radios, tape or compact disc players without headphones; or any other electronic device in a manner that might interfere with the school bus communications equipment or the school bus driver's operation of the school bus; and

(C) Students shall be prohibited from using mirrors, lasers, flash cameras, or any other lights or reflective devices in a manner that might interfere with the school bus driver's operation of the school bus.

(2) If a student is found to have engaged in physical acts of violence as defined by Code Section 20-2-751.6, the student shall be subject to the penalties set forth in such Code section. If a student is found to have engaged in bullying as defined by subsection (a) of Code Section 20-2-751.4 or in physical assault or battery of another person on the school bus, the local school board policy shall require a meeting of the parent or guardian of the student and appropriate school district

officials to form a school bus behavior contract for the student. Such contract shall provide for progressive age-appropriate discipline, penalties, and restrictions for student misconduct on the bus. Contract provisions may include but shall not be not limited to assigned seating, ongoing parental involvement, and suspension from riding the bus. This subsection is not to be construed to limit the instances when a school code of conduct or local board of education may require use of a student bus behavior contract.

(c) Each student code of conduct shall also contain provisions that address any off-campus behavior of a student which could result in the student being criminally charged with a felony and which makes the student's continued presence at school a potential danger to persons or property at the school or which disrupts the educational process.

(d) Local board policies relating to student codes of conduct shall provide that each local school superintendent shall fully support the authority of principals and teachers in the school system to remove a student from the classroom pursuant to Code Section 20-2-738, including establishing and disseminating procedures. It is the policy of this state that it is preferable to reassign disruptive students to alternative educational settings rather than to suspend or expel such students from school.

(e) Any student handbook which is prepared by a local board or school shall include a copy of the student code of conduct for that school or be accompanied by a copy of the student code of conduct for that school as annually distributed pursuant to Code Section 20-2-736. When distributing a student code of conduct, a local school shall include a form for acknowledgment of the student's parent or guardian's receipt of the code, and the local school shall solicit or require that the form be signed and returned to the school. (Code 1981, § 20-2-751.5, enacted by Ga. L. 1999, p. 370, § 1; Ga. L. 2000, p. 136, § 20; Ga. L. 2002, p. 1421, § 1; Ga. L. 2003, p. 140, § 20; Ga. L. 2004, p. 107, § 14; Ga. L. 2006, p. 851, § 7/SB 413; Ga. L. 2008, p. 214, § 1/HB 1321; Ga. L. 2014, p. 432, § 1-5/HB 826.)

The 2014 amendment, effective July 1, 2014, in paragraph (a)(12), substituted "firearm" for "weapon" near the beginning and added ", and possession of a dangerous weapon or hazardous object" at the end.

Law reviews. — For comment, "Pacifism in a Dog-Eat-Dog World: Potential Solutions to School Bullying," see 64 Mercer L. Rev. 753 (2013).

20-2-751.6. Disciplinary policy for students committing acts of physical violence against teacher, school bus driver, or other school official or employee.

JUDICIAL DECISIONS

Criminal action by student against school resource officer. — Because the school officials exercised their discretion under the law to report alleged criminal action against a school resource officer by the student, there was no evidence that school officials were involved in the decision to admit the student into the youth detention center, and the student was allowed to return to school upon the student's release from the youth detention

center, the disciplinary hearing was not untimely, as there was evidence that the student had not been suspended before the hearing, and, thus, the superior court erred in reversing the state board of education's decision and remanding the case to the state board with direction to vacate the adjudication of expulsion entered against the student. *Fulton County Bd. of Educ. v. D. R. H.*, 325 Ga. App. 53, 752 S.E.2d 103 (2013).

20-2-753. Disciplinary hearing officer, panel, or tribunal to hold disciplinary hearing following allegation of assault and battery or recommended suspension or expulsion exceeding 10 days.

JUDICIAL DECISIONS

Timely hearing provided. — After a student was expelled for violations of the local board of education's code of student conduct, because the determination of the student's misconduct was a contested issue before the local board, the student was allowed to appeal the decision, and the superior court did not err in ruling that the student's appeal to the state board of education was not moot; however, despite the board's initial ruling that the appeal was moot, the state board reviewed the local board's decision on the merits and found that the student had not been suspended from school before the disciplinary hearing and, therefore, was provided a timely hearing. *Fulton County Bd. of Educ. v. D. R. H.*, 325 Ga. App. 53, 752 S.E.2d 103 (2013).

Because the school officials exercised

their discretion under the law to report alleged criminal action against a school resource officer by the student, there was no evidence that school officials were involved in the decision to admit the student into the youth detention center, and the student was allowed to return to school upon the student's release from the youth detention center, the disciplinary hearing was not untimely as there was evidence that the student had not been suspended before the hearing and, thus, the superior court erred in reversing the state board of education's decision and remanding the case to the state board with direction to vacate the adjudication of expulsion entered against the student. *Fulton County Bd. of Educ. v. D. R. H.*, 325 Ga. App. 53, 752 S.E.2d 103 (2013).

20-2-754. Procedures to be followed by disciplinary officer, panel, or tribunal; review.

JUDICIAL DECISIONS

Timely hearing provided. — After a student was expelled for violations of the local board of education's code of student conduct, because the determination of the student's misconduct was a contested issue before the local board, the student was allowed to appeal the decision, and the superior court did not err in ruling that the student's appeal to the state board of education was not moot; however, despite the board's initial ruling that the appeal was moot, the state board reviewed the local board's decision on the merits and found that the student had not been suspended from school before the disciplinary hearing and, therefore, was provided a timely hearing. *Fulton County Bd. of Educ. v. D. R. H.*, 325 Ga. App. 53, 752 S.E.2d 103 (2013).

Because the school officials exercised

their discretion under the law to report alleged criminal action against a school resource officer by the student, there was no evidence that school officials were involved in the decision to admit the student into the youth detention center, and the student was allowed to return to school upon the student's release from the youth detention center, the disciplinary hearing was not untimely as there was evidence that the student had not been suspended before the hearing and, thus, the superior court erred in reversing the state board of education's decision and remanding the case to the state board with direction to vacate the adjudication of expulsion entered against the student. *Fulton County Bd. of Educ. v. D. R. H.*, 325 Ga. App. 53, 752 S.E.2d 103 (2013).

20-2-756. Reports to law enforcement officials.

JUDICIAL DECISIONS

Exercise of discretion in reporting criminal action by student. — Because the school officials exercised their discretion under the law to report alleged criminal action against a school resource officer by the student, there was no evidence that school officials were involved in the decision to admit the student into the youth detention center, and the student was allowed to return to school upon the student's release from the youth detention

center, the disciplinary hearing was not untimely as there was evidence that the student had not been suspended before the hearing and, thus, the superior court erred in reversing the state board of education's decision and remanding the case to the state board with direction to vacate the adjudication of expulsion entered against the student. *Fulton County Bd. of Educ. v. D. R. H.*, 325 Ga. App. 53, 752 S.E.2d 103 (2013).

Subpart 3

Chronic Disciplinary Problem Students

20-2-766.1. Proceeding against parents for failure to cooperate in educational programs; penalty.

The local board of education may, by petition to the juvenile court, proceed against a parent or guardian as provided in this Code section. If the court finds that the parent or guardian has willfully and unreasonably failed to attend a conference requested by a principal

pursuant to Code Section 20-2-765 or 20-2-766, the court may order the parent or guardian to attend such a conference, order the parent or guardian to participate in such programs or such treatment as the court deems appropriate to improve the student's behavior, or both. After notice and opportunity for hearing, the court may impose a fine, not to exceed \$500.00, on a parent or guardian who willfully disobeys an order of the court entered under this Code section. The court may use its contempt and other powers specified in Code Section 15-11-31 to enforce any order entered under this Code section. (Code 1981, § 20-2-766.1, enacted by Ga. L. 2000, p. 618, § 68; Ga. L. 2013, p. 294, § 4-38/HB 242.)

The 2013 amendment, effective January 1, 2014, substituted "Code Section 15-11-31" for "Code Section 15-11-5" in the middle of the last sentence of this Code section. See editor's note for applicability.

Editor's notes. — Ga. L. 2013, p. 294, § 5-1/HB 242, not codified by the General Assembly, provides that: "This Act shall become effective on January 1, 2014, and shall apply to all offenses which occur and juvenile proceedings commenced on and after such date. Any offense occurring

before January 1, 2014, shall be governed by the statute in effect at the time of such offense and shall be considered a prior adjudication for the purpose of imposing a disposition that provides for a different penalty for subsequent adjudications, of whatever class, pursuant to this Act. The enactment of this Act shall not affect any prosecutions for acts occurring before January 1, 2014, and shall not act as an abatement of any such prosecutions."

Subpart 4

Alternative Educational Systems

20-2-768. Expulsion or suspension of students for felonies; alternative educational system; policy.

(a) Each local board of education is authorized to refuse to readmit or enroll any student who has been suspended or expelled for being convicted of, being adjudicated to have committed, being indicted for, or having information filed for the commission of any felony or any delinquent act under Code Sections 15-11-602 and 15-11-707 which would be a felony if committed by an adult. If refused readmission or enrollment, the student or the student's parent or legal guardian has the right to request a hearing pursuant to the procedures provided for in Code Section 20-2-754.

(b) A hearing officer, tribunal, panel, superintendent, or local board of education shall be authorized to place a student denied enrollment in a local school system under subsection (a) of this Code section in an alternative educational system as appropriate and in the best interest of the student and the education of other students within the school system.

(c) It is the policy of this state that it is preferable to reassign disruptive students to alternative educational settings rather than to

suspend or expel such students from school. (Code 1981, § 20-2-768, enacted by Ga. L. 1997, p. 1436, § 9; Ga. L. 2000, p. 20, § 18; Ga. L. 2000, p. 618, § 66; Ga. L. 2013, p. 294, § 4-39/HB 242.)

The 2013 amendment, effective January 1, 2014, substituted “Code Sections 15-11-602 and 15-11-707” for “Code Section 15-11-28” near the end of the first sentence of subsection (a). See editor’s note for applicability.

Editor’s notes. — Ga. L. 2013, p. 294, § 5-1/HB 242, not codified by the General Assembly, provides that: “This Act shall become effective on January 1, 2014, and shall apply to all offenses which occur and juvenile proceedings commenced on and

after such date. Any offense occurring before January 1, 2014, shall be governed by the statute in effect at the time of such offense and shall be considered a prior adjudication for the purpose of imposing a disposition that provides for a different penalty for subsequent adjudications, of whatever class, pursuant to this Act. The enactment of this Act shall not affect any prosecutions for acts occurring before January 1, 2014, and shall not act as an abatement of any such prosecutions.”

PART 3

HEALTH

20-2-771. Immunization of students.

(a) As used in this Code section, the term:

(1) “Certificate of immunization” means certification by a physician licensed under the laws of this state or by an appropriate official of a local board of health, on a form provided by the Department of Public Health, that a named person has been immunized in accordance with the applicable rules and regulations of the Department of Public Health.

(2) “Facility” means any public or private child care learning center or nursery intended for the care, supervision, or instruction of children.

(3) “Responsible official” means a county school superintendent, a school principal, or a chief operating officer of a school or facility.

(4) “School” means any public or private educational program or institution instructing children at any level or levels, kindergarten through twelfth grade, or children of ages five through 19 if grade divisions are not used.

(b) No child shall be admitted to or attend any school or facility in this state unless the child shall first have submitted a certificate of immunization to the responsible official of the school or facility. The responsible official of any school or facility may grant a 30 calendar day waiver of the certification requirement for a justified reason. The waiver may be extended from the date of first admittance or of first attendance, whichever is earlier, for up to 90 calendar days provided

documentation is on file at the school or facility from the local health department or a physician specifying that an immunization sequence has been started and that this immunization time schedule can be completed within the 90 day waiver period, provided confirmation is received during the waiver period from the health department or physician that immunizations are being received as scheduled, and provided the student under waiver is a transfer student, who is defined as a student who moves from an out-of-state school system to a Georgia school system, or a student entering kindergarten or first grade from out of state. The waiver may not be extended beyond 90 calendar days; and upon expiration of the waiver, the child shall not be admitted to or be permitted to attend the school or facility unless the child submits a certificate of immunization.

(c) The Department of Public Health shall promulgate rules and regulations specifying those diseases against which immunization is required and the standards for such immunizations. The school or facility shall maintain on file the certificates of immunization for all children attending the school or facility. All facilities shall file a report annually with the Department of Public Health. The report shall be filed on forms prepared by the Department of Public Health and shall state the number of children attending the school or facility, the number of children who did not submit certificates of immunization within the waiver period, and the number of children who are exempted from the certification requirement for medical or religious reasons.

(d) If, after examination by the local board of health or any physician licensed under the laws of this state or of any other state having comparable laws governing the licensure of physicians, any child to whom this Code section applies is found to have any physical disability which may make vaccination undesirable, a certificate to that effect issued by the local board of health or such physician licensed under the laws of this or such other state may be accepted in lieu of a certificate of immunization and shall exempt the child from the requirement of obtaining a certificate of immunization until the disability is relieved.

(e) This Code section shall not apply to a child whose parent or legal guardian objects to immunization of the child on the grounds that the immunization conflicts with the religious beliefs of the parent or guardian; however, the immunization may be required in cases when such disease is in epidemic stages. For a child to be exempt from immunization on religious grounds, the parent or guardian must first furnish the responsible official of the school or facility an affidavit in which the parent or guardian swears or affirms that the immunization required conflicts with the religious beliefs of the parent or guardian.

(f) During an epidemic or a threatened epidemic of any disease preventable by an immunization required by the Department of Public

Health, children who have not been immunized may be excluded from the school or facility until (1) they are immunized against the disease, unless they present valid evidence of prior disease, or (2) the epidemic or threat no longer constitutes a significant public health danger.

(g) The requirement of a certificate of immunization shall become effective for all children entering or attending facilities on or after April 7, 1981. The certification requirement shall apply to all children entering or attending schools:

(1) On September 1, 1981, for all such children entering or attending kindergarten or the first, ninth, tenth, eleventh, or twelfth grades, or of the equivalent ages if grade divisions are not used;

(2) On September 1, 1982, for all such children entering or attending all grades, or of all ages if grade divisions are not used.

(h) Any responsible official permitting any child to remain in a school or facility in violation of this Code section, and any parent or guardian who intentionally does not comply with this Code section, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$100.00 or by imprisonment for not more than 12 months. The Department of Public Health may adopt rules and regulations for the enforcement of this Code section. The Department of Public Health and the local board of health, or either of them, may institute a civil action in the superior court of the county in which the defendant resides for injunctive relief to prevent a threatened or continuing violation of any provision of this Code section. (Ga. L. 1880-81, p. 98, § 1; Ga. L. 1919, p. 288, § 87; Code 1933, § 32-911; Ga. L. 1946, p. 206, § 2; Ga. L. 1957, p. 455, § 1; Ga. L. 1964, p. 499, § 6; Ga. L. 1968, p. 1436, § 1; Ga. L. 1972, p. 1069, § 3; Ga. L. 1973, p. 910, §§ 1, 2; Ga. L. 1978, p. 941, § 1; Ga. L. 1979, p. 1284, § 1; Ga. L. 1981, p. 756, § 1; Ga. L. 1987, p. 319, § 1; Ga. L. 2009, p. 453, § 1-4/HB 228; Ga. L. 2011, p. 705, § 6-3/HB 214; Ga. L. 2013, p. 135, § 12/HB 354.)

The 2013 amendment, effective July 1, 2013, substituted “child care learning center” for “day-care center” in paragraph (a)(2).

20-2-771.2. School health nurse programs.

Law reviews. — For annual survey on administrative law, see 64 Mercer L. Rev. 39 (2012).

20-2-776.2. Stock supply of auto-injectable epinephrine; requirements; limited liability.

(a) As used in this Code section, the term:

(1) “Auto-injectable epinephrine” means a disposable drug delivery device that is easily transportable and contains a premeasured single dose of epinephrine used to treat life-threatening allergic reactions.

(2) “Licensed practitioner” means a physician licensed to practice medicine in this state, an advanced practice registered nurse acting pursuant to the authority of Code Section 43-34-25, and a physician assistant acting pursuant to the authority of subsection (e.1) of Code Section 43-34-103.

(b) A public or private school in this state may acquire and stock a supply of auto-injectable epinephrine pursuant to a prescription issued in accordance with Code Section 26-4-116.1. A public or private school may designate an employee or agent trained in the possession and administration of auto-injectable epinephrine to be responsible for the storage, maintenance, and distribution of the auto-injectable epinephrine stocked by the school.

(c) Any school employee or agent of a public or private school who has completed training or received information in accordance with subsection (c) of Code Section 20-2-776.1 in recognizing the symptoms of anaphylactic shock and the correct method of administering the auto-injectable epinephrine may:

(1) Provide auto-injectable epinephrine to any student such employee or agent believes in good faith is experiencing an anaphylactic adverse reaction for immediate self-administration; or

(2) Administer auto-injectable epinephrine to any student such employee or agent believes in good faith is experiencing an anaphylactic adverse reaction in accordance with a standing protocol from the prescribing licensed practitioner,

regardless of whether the student has a prescription for auto-injectable epinephrine.

(d) A public or private school may enter into arrangements with manufacturers of approved auto-injectable epinephrine or third-party suppliers of auto-injectable epinephrine to obtain the products free of charge or at fair market or reduced prices.

(e) No later than July 1, 2013, the State Board of Education, in consultation with the Department of Public Health, shall adopt regulations as necessary to implement the provisions of this Code section.

(f)(1) Any school personnel who in good faith administers or chooses not to administer epinephrine to a student pursuant to this Code section shall be immune from civil liability for any act or omission to act related to the administration of epinephrine, except that such immunity shall not apply to an act of willful or wanton misconduct.

(2) Any licensed practitioner who prescribes auto-injectable epinephrine pursuant to Code Section 26-4-116.1 for use by a school in accordance with this Code section shall be immune from civil liability for any act or omission to act related to the administration of such auto-injectable epinephrine, except that such immunity shall not apply to an act of willful or wanton misconduct. (Code 1981, § 20-2-776.2, enacted by Ga. L. 2013, p. 1039, § 1/HB 337.)

Effective date. — This Code section became effective May 7, 2013.

20-2-779. Care of students with diabetes; definitions; training of school employees; diabetes medical management plan; no liability for staff; application to private schools.

Law reviews. — For annual survey on administrative law, see 64 Mercer L. Rev. 39 (2012).

ARTICLE 17

TEACHERS AND OTHER SCHOOL PERSONNEL

PART 4

SICK, PERSONAL, AND MATERNITY LEAVE

20-2-853. Accumulation of and payment for additional days of unused sick leave.

(a) Personnel who have accumulated 45 days of unused sick leave may accumulate additional days of unused sick leave during each school year for the purpose of receiving the payments provided for in subsection (b) of this Code section.

(b) Beginning with the 1988-89 school year and continuing each school year thereafter, personnel who have accumulated 45 days of unused sick leave and who then accumulate additional days of unused sick leave during a school year as authorized by Code Section 20-2-850 and who:

(1) Have used no sick leave in that school year shall receive the state contribution for all those additional days of unused sick leave;
or

(2) Have used only one day of those additional days of sick leave in that school year

shall receive \$50.00 for all those additional days of unused sick leave. The payment for such additional unused sick leave which is accumu-

lated during a school year shall be paid to such personnel at the end of that school year. (Code 1981, § 20-2-853, enacted by Ga. L. 1988, p. 1496, § 3; Ga. L. 1989, p. 14, § 20; Ga. L. 1990, p. 8, § 20.)

PART 6

HEALTH INSURANCE PLANS

Subpart 2

Plan for Public School Teachers

20-2-880. Definitions.

As used in this subpart, the term or terms:

(1) “Board” means the Board of Community Health established under Chapter 2 of Title 31.

(2) “Commissioner” means the commissioner of community health established under Chapter 2 of Title 31.

(3) “Local employer” means the county or independent board of education, a charter school, regional and county libraries, and the governing authority of Georgia Military College.

(4) “Public school teacher,” “teacher,” and “employee” mean any person employed not less than half time in a professionally certificated capacity or position in the public school systems of this state. “Public school teacher,” “teacher,” and “employee” also mean librarians and other personnel employed not less than 30 hours per week by regional and county libraries. “Public school teacher,” “teacher,” and “employee” also mean personnel employed by the high school program of Georgia Military College. “Public school teacher,” “teacher,” and “employee” also mean any professionally certificated person who has acquired ten years or more of creditable service and who is being paid retirement benefits by the Teachers Retirement System of Georgia, Chapter 3 of Title 47, or by any other public school teacher retirement system in this state. “Public school teacher,” “teacher,” and “employee” also mean any person employed not less than half time and compensated in a professionally certificated capacity or position in a charter school in this state established pursuant to Article 31 of Chapter 2 of Title 20 if such charter school elects upon initial approval of its charter or, if such charter school is an existing charter school, elects upon notice by the health insurance plan provided in this part or upon the expiration of its current health care plan or by no later than December 31, 2009, to participate in the health insurance plan established pursuant to this subpart. “Public school teacher,” “teacher,” and “employee” shall not be deemed to include any

emergency or temporary employee. Notwithstanding this definition or any other provision of this subpart, the board may, by regulation, make available to employees who work 17 1/2 hours or more per week such benefits as are required to be made available to such employees by regulations of the United States Internal Revenue Service or any other federal authority.

(5) “Qualified entity” means any person, association, corporation, or other legal entity with which the board is authorized under Article 1 of Chapter 18 of Title 45, relating to state employees’ health insurance, to enter into contract. (Ga. L. 1975, p. 37, § 1; Ga. L. 1977, p. 991, § 1; Ga. L. 1978, p. 2268, §§ 1, 2; Ga. L. 1979, p. 1290, § 1; Ga. L. 1986, p. 291, § 1; Ga. L. 1987, p. 3, § 20; Ga. L. 1989, p. 1143, § 1; Ga. L. 1992, p. 6, § 20; Ga. L. 1999, p. 296, § 26; Ga. L. 2001, p. 4, § 20; Ga. L. 2008, p. 612, § 1/HB 1277; Ga. L. 2009, p. 453, § 1-7/HB 228; Ga. L. 2014, p. 171, § 1/HB 490.)

The 2014 amendment, effective July 1, 2014, in paragraph (4), inserted “not less than 30 hours per week” in the middle of the second sentence and substituted “ ‘Public school teacher,’ ‘teacher,’ and ‘employee’ also mean personnel employed by” for “or” at the beginning of the third sentence.

PART 7

TERMINATION, SUSPENSION, NONRENEWAL, DEMOTION, OR REPRIMAND

20-2-940. Grounds and procedure for terminating or suspending contract of employment.

Law reviews. — For comment, “Testing Our Teachers,” 61 Emory L.J. 1493 (2012).

JUDICIAL DECISIONS

ANALYSIS

GENERAL CONSIDERATION
GROUNDS FOR TERMINATION OR SUSPENSION

General Consideration

Review.

Although a superior court erred in ruling that the State Board of Education lacked jurisdiction over two tenured teachers’ appeals from their nonrenewal under O.C.G.A. § 20-2-942 because the appeals were more than 30 days from the date the local board voted, the superior court properly affirmed the State Board’s

decision to reverse the local board’s nonrenewal decisions because the local board failed to comply with the decision and notice requirements of O.C.G.A. § 20-2-1160(a). Clayton County Bd. of Educ. v. Wilmer, 325 Ga. App. 637, 753 S.E.2d 459 (2014).
Cited in West v. Dooly County Sch. Dist., 316 Ga. App. 330, 729 S.E.2d 469 (2012).

Grounds for Termination or Suspension

Evidence sufficient to support termination.

Nonrenewal of a teacher's contract under O.C.G.A. § 20-2-940(a) was upheld based on evidence that the teacher disregarded school policies, failed to monitor

the teacher's students' work, was tardy, left the class unattended repeatedly, did not conduct roll calls, and was belligerent and insubordinate to co-workers and the teacher's principal; furthermore, evidence from other contract years was admissible. *King v. Worth County Bd. of Educ.*, 324 Ga. App. 208, 749 S.E.2d 791 (2013).

20-2-942. Procedure for nonrenewal after acceptance by teacher of school year contract for fourth consecutive school year; procedure for nonrenewal by another local board of education; professional certificated personnel; rights of school administrators; tenure.

JUDICIAL DECISIONS

Equal protection for teachers and paraprofessionals. — Elementary school orchestra and band teachers' equal protection claims failed because: (1) the school district had a rational basis for treating those teachers and Grades 1 through 3 paraprofessionals differently with regard to which employees would be retained since, *inter alia*, "teachers" and "paraprofessionals" were treated differently under Georgia law; and (2) the district was not collaterally estopped from defending against the equal protection claims since the district was not subject to offensive, non-mutual collateral estoppel. *Demaree v. Fulton County Sch. Dist.*, No. 12-15900, 2013 U.S. App. LEXIS 6994 (11th Cir. Apr. 8, 2013) (Unpublished).

Due process notice.

Notice given to a teacher of the nonrenewal of the teacher's contract adequately advised the teacher of the specific grounds for the non-renewal of the teacher's contract as well as the names of the witnesses who might be called to testify in compliance with O.C.G.A. § 20-2-942(b). The notice also highlighted several specific incidents and noted that the teacher had had these problems for the past eight years. *King v. Worth County Bd. of Educ.*, 324 Ga. App. 208, 749 S.E.2d 791 (2013).

Appeal.

Although a superior court erred in ruling that the State Board of Education lacked jurisdiction over two tenured teachers' appeals from their nonrenewal under O.C.G.A. § 20-2-942 because the appeals were more than 30 days from the date the local board voted, the superior court properly affirmed the State Board's decision to reverse the local board's nonrenewal decisions because the local board failed to comply with the decision and notice requirements of O.C.G.A. § 20-2-1160(a). *Clayton County Bd. of Educ. v. Wilmer*, 325 Ga. App. 637, 753 S.E.2d 459 (2014).

School district administrator could not claim tenure. — School district administrator, who had not obtained tenure before the Georgia legislature abolished tenure for administrators by the enactment of O.C.G.A. § 20-2-942(c)(1), which was made effective on April 7, 1995, was not entitled to due process and the protections of the Georgia Fair Dismissal Act, O.C.G.A. § 20-2-940 et seq., because the administrator did not have a property interest in the administrator's job. *West v. Dooly County Sch. Dist.*, 316 Ga. App. 330, 729 S.E.2d 469 (2012).

20-2-947. Part does not authorize contracts of employment.**JUDICIAL DECISIONS**

Cited in *West v. Dooly County Sch. Dist.*, 316 Ga. App. 330, 729 S.E.2d 469 (2012).

PART 11**COMPLAINTS POLICY****20-2-989.7. Matters not subject to complaint.**

(a) The performance ratings contained in personnel evaluations conducted pursuant to Code Section 20-2-210, professional development plans, and job performance shall not be subject to complaint under the provisions of this part. The termination, nonrenewal, demotion, suspension, or reprimand of any employee, as set forth in Code Section 20-2-940, and the revocation, suspension, or denial of certificates of any employee, as set forth in Code Section 20-2-984.5, shall not be subject to complaint under the provisions of this part.

(b) A certified employee who chooses to appeal under Code Section 20-2-1160 shall be barred from pursuing the same complaint under this part. (Code 1981, § 20-2-989.7, enacted by Ga. L. 1992, p. 3303, § 1; Ga. L. 1999, p. 81, § 20; Ga. L. 2013, p. 1091, § 5/HB 244.)

The 2013 amendment, effective July 1, 2014, substituted “evaluations conducted pursuant to Code Section 20-2-210, professional development plans,” for “evaluations and professional development plans pursuant to Code Section 20-2-210” in the first sentence of subsection (a). See editor’s note for applicability.

Editor’s notes. — Ga. L. 2013, p. 1091, § 6/HB 244, not codified by the General Assembly, provides: “This Act shall become effective on July 1, 2014, and shall be applicable beginning in school year 2014-2015.”

ARTICLE 18**LIABILITY INSURANCE FOR STATE AND LOCAL SCHOOL OFFICIALS AND EMPLOYEES****20-2-991. Liability insurance for performance of duties authorized; actions against insurers.**

Cross references. — Liability insurance, § 24-4-411.

JUDICIAL DECISIONS

Sovereign immunity not waived by purchase of insurance.

Trial court erred in a negligence slip and fall case by denying a school district's motion to dismiss because Ga. Const. 1983, Art. I, Sec. II, Para. IX provides that

sovereign immunity extends to the state and all of the state's departments and agencies, and a school district is a political subdivision of the state. *Peach County Sch. Dist. v. Austin*, 322 Ga. App. 368, 745 S.E.2d 293 (2013).

ARTICLE 18A

LIABILITY OF EDUCATORS FOR DISCIPLINING STUDENTS

20-2-1000. Limitation on civil damages for disciplining student; “educator” defined; frivolous or nonmeritorious actions; legal counsel for the educator.

(a) As used in this Code section, the term “educator” means any principal, school administrator, teacher, school counselor, paraprofessional, school bus driver, volunteer assisting teachers in the classroom, tribunal members, or certificated professional personnel.

(b) No educator shall be liable for any civil damages for, or arising out of, any act or omission concerning, relating to, or resulting from the discipline of any student or the reporting of any student for misconduct, except for acts or omissions of willful or wanton misconduct.

(c) If a judgment or finding is rendered in favor of a defendant educator in any action, complaint, disciplinary proceeding, or other administrative proceeding brought by a student, a parent or guardian of a student, or any other person on behalf of a student and arising out of or resulting from the discipline of such student or if the complaint is found to be nonmeritorious, frivolous, or without just cause, all reasonable court costs, reasonable attorneys’ fees, and reasonable expenses incurred by the defendant educator in defending such action or complaint shall be assessed by the court, agency, or other tribunal against the plaintiff and shall be paid by the plaintiff. Any educator shall have a right to bring an action or a counterclaim against the plaintiff in any such action or proceeding for any damages suffered by the educator as a result of the actions of the student or the filing of any frivolous or nonmeritorious action, complaint, or report. Nothing in this subsection shall be construed to apply to any educator filing a complaint as required by the rules, regulations, or code of ethics of the Professional Standards Commission; any child abuse reporting statute; any applicable local board of education rule, regulation, or policy; or any State Board of Education rule, regulation, or policy.

(d) If any civil action is brought against any educator or any report or complaint is made or filed against any educator with the county or local

board of education, the Department of Education, the Professional Standards Commission, or any other regulatory agency or tribunal by a student, a parent or guardian of a student, or any other person on behalf of a student and arising out of or relating to the discipline of such student, it shall be the duty of the county or local board of education employing such educator to provide counsel for the educator, if requested by the educator, unless such board of education determines, after an independent investigation of the report or complaint, that the act or omission of the educator constituted willful or wanton misconduct or constituted gross misconduct in violation of the express written policies of the board of education. Neither testimony given in such independent investigation nor the results of any such independent investigation by the board of education shall be admissible in any other proceeding. The provision of counsel to such educator shall be for an educational purpose and any funds available to the board of education may be expended for such purpose. Any attorneys' fees recovered pursuant to subsection (c) of this Code section attributable to the services furnished by any counsel provided to an educator by his or her employer shall be paid to the employer. (Code 1981, § 20-2-1000, enacted by Ga. L. 1995, p. 772, § 1; Ga. L. 1997, p. 1436, § 10; Ga. L. 1998, p. 750, § 9; Ga. L. 1999, p. 81, § 20; Ga. L. 2013, p. 1061, § 33/HB 283.)

The 2013 amendment, effective July 1, 2013, substituted "school counselor" for "guidance counselor" near the middle of subsection (a).

20-2-1001. Limited immunity from criminal liability.

(a) As used in this Code section, the term "educator" means any principal, school administrator, teacher, school counselor, paraprofessional, school bus driver, volunteer assisting teachers in the classroom, tribunal members, or certificated professional personnel.

(b) An educator shall be immune from criminal liability for any act or omission concerning, relating to, or resulting from the discipline of any student or the reporting of any student for misconduct, provided that the educator acted in good faith. (Code 1981, § 20-2-1001, enacted by Ga. L. 1997, p. 1436, § 11; Ga. L. 2013, p. 1061, § 33/HB 283.)

The 2013 amendment, effective July 1, 2013, substituted "school counselor" for "guidance counselor" near the middle of subsection (a).

ARTICLE 24
ELIMINATION OF ADULT ILLITERACY

20-2-1140 and 20-2-1141.

Reserved. Repealed by Ga. L. 1988, p. 1252, § 1, effective July 1, 1988.

Editor's notes. — Ga. L. 2014, p. 866, § 20/SB 340, effective April 29, 2014, reserved the designation of this article.

ARTICLE 25
SCHOOL LAW TRIBUNALS; APPEALS

20-2-1160. Local boards to be tribunals to determine school law controversies; appeals; special provisions for disabled children.

JUDICIAL DECISIONS

ANALYSIS

APPEAL TO STATE BOARD
JUDICIAL PROCEEDINGS

Appeal to State Board

State Board had jurisdiction although local board failed to give proper notice. — Although a superior court erred in ruling that the State Board of Education lacked jurisdiction over two tenured teachers' appeals from their nonrenewal under O.C.G.A. § 20-2-942 because the appeals were more than 30 days from the date the local board voted, the superior court properly affirmed the State Board's decision to reverse the local board's nonrenewal decisions because the local board failed to comply with the decision and notice requirements of O.C.G.A. § 20-2-1160(a). Clayton County Bd. of Educ. v. Wilmer, 325 Ga. App. 637, 753 S.E.2d 459 (2014).

Appeal not moot where misconduct is contested issue before local board. — After a student was expelled for violations of the local board of education's code of student conduct, because the determination of the student's misconduct was a contested issue before the local board, the student was allowed to appeal the deci-

sion, and the superior court did not err in ruling that the student's appeal to the state board of education was not moot; however, despite its initial ruling that the appeal was moot, the state board reviewed the local board's decision on the merits and found that the student had not been suspended from school before the disciplinary hearing and, therefore, was provided a timely hearing. Fulton County Bd. of Educ. v. D. R. H., 325 Ga. App. 53, 752 S.E.2d 103 (2013).

Judicial Proceedings

Under subsection (e), on review, state board and superior court shall be confined to record.

After a student was expelled for violations of the local board of education's code of student conduct, the superior court erred by not confining the board's review to the record or the issues raised before the local board by citing to newspapers and online college admissions applications purportedly indicating that many colleges required high schools to submit

Judicial Proceedings (Cont'd)

disciplinary records for prospective students and also asked prospective students

to self-report infractions. Fulton County Bd. of Educ. v. D. R. H., 325 Ga. App. 53, 752 S.E.2d 103 (2013).

ARTICLE 27**LOITERING AT OR DISRUPTING SCHOOLS**

20-2-1180. Loitering in or on a school safety zone; penalty; required check in of visitors; posting signs of required check in.

(a) It shall be unlawful for any person to remain in or on any school safety zone in this state or to remain in or on any such school safety zone when such person does not have a legitimate cause or need to be present thereon. Each principal or designee of each public or private school in this state shall have the authority to exercise such control over the buildings and grounds upon which a school is located so as to prohibit any person who does not have a legitimate need or cause to be present thereon from loitering upon such premises. Each principal or designee of each public or private school in this state shall notify the appropriate law enforcement agency to prohibit any person who does not have a legitimate need or cause to be present therein from loitering within the school safety zone.

(b) Any person who:

(1) Is present in or on any school safety zone in this state and willfully fails to remove himself or herself from such school safety zone after the principal or designee of such school requests him or her to do so; or

(2) Fails to check in at the designated location as required by subsection (c) of this Code section

shall be guilty of a misdemeanor of a high and aggravated nature.

(c) Upon entering any school building between the official starting time and the official dismissal time, any person who is not a student at such school, an employee of the school or school system, a school board member, an approved volunteer following the established guidelines of the school, or a person who has been invited to or otherwise authorized to be at the school by a principal, teacher, counselor, or other authorized employee of the school shall check in at the designated location as stated on posted signs and provide a reason for his or her presence at the school.

(c.1) Subsections (b) and (c) of this Code section shall not apply to:

(1) Law enforcement officers, firefighters, emergency medical technicians or paramedics, or any public safety or emergency manage-

ment officials in the performance of an emergency call or to other persons making authorized deliveries to the school;

(2) Any person entering a school on election day, for purposes of voting, when the school serves as an official polling place; or

(3) Any person attending or participating in an academic or athletic event while remaining in the authorized area or a parent, grandparent, or guardian listed on a child's pick-up list who fails to sign-in while delivering school supplies, food, clothing, other legitimate business and who has not previously been sanctioned by school officials for disrupting a school.

(d) A school administrator or his or her designee may ask any visitor to explain his or her presence in the school building at any time when the school is in official session.

(e) If the school posts signs on entrances to the school requiring visitors to check in at the designated location, such signs shall be deemed prima-facie evidence that persons entering the school were on notice of the requirements of this Code section.

(f) Nothing in this Code section shall be construed to prohibit school administrators from prohibiting the admission of any person who has violated school policy or state law.

(g) As used in this Code section, the term "school safety zone" shall have the same meaning as set forth in Code Section 16-11-127.1. (Ga. L. 1973, p. 719, §§ 1, 2; Ga. L. 1994, p. 1012, § 5; Ga. L. 2002, p. 1078, § 1; Ga. L. 2006, p. 519, § 4/HB 1302; Ga. L. 2014, p. 432, § 2-10/HB 826; Ga. L. 2014, p. 599, § 3-4/HB 60.)

The 2014 amendments. — The first 2014 amendment, effective July 1, 2014, substituted the present provisions of the first sentence of subsection (a) for the former provisions, which read: "It shall be unlawful for any person to remain upon the premises or within the school safety zone as defined in paragraph (1) of subsection (a) of Code Section 16-11-127.1 of any public or private school in this state or to remain upon such premises or within such school safety zone when that person does not have a legitimate cause or need to be present thereon."; in paragraph (b)(1), substituted "present in or on any school

safety zone" for "present upon the premises or within the school safety zone of any public or private school" near the beginning and substituted "school safety zone" for "premises" near the end; and added subsection (g). The second 2014 amendment, effective July 1, 2014, deleted "paragraph (1) of subsection (a) of" following "as defined in" in the first sentence of subsection (a).

Editor's notes. — Ga. L. 2014, p. 599, § 1-1/HB 60, not codified by the General Assembly, provides: "This Act shall be known and may be cited as the 'Safe Carry Protection Act.'"

JUDICIAL DECISIONS

Evidence insufficient. — Defendant was entitled to reversal of a conviction for

loitering upon school premises because the evidence showed that from the time

the assistant principal first spoke with the defendant and walked out of the building with the defendant, two to four minutes elapsed and that the principal's conversation with the defendant and the defen-

dant's conversation with police took place only seconds apart, and then the defendant left. *Isenhower v. State*, 324 Ga. App. 380, 750 S.E.2d 703 (2013).

20-2-1184. Reporting of students committing prohibited acts.

(a) Any teacher or other person employed at any public or private elementary or secondary school or any dean or public safety officer employed by a college or university who has reasonable cause to believe that a student at that school has committed any act upon school property or at any school function, which act is prohibited by Code Section 16-5-21 or 16-5-24, Chapter 6 of Title 16, and Code Section 16-11-127, 16-11-127.1, 16-11-132, or 16-13-30, shall immediately report the act and the name of the student to the principal or president of that school or the principal's or president's designee.

(b) The principal or designee who receives a report made pursuant to subsection (a) of this Code section who has reasonable cause to believe that the report is valid shall make an oral report thereof immediately by telephone or otherwise to the appropriate school system superintendent and to the appropriate police authority and district attorney.

(c) Any person participating in the making of a report or causing a report to be made as authorized or required pursuant to this Code section or participating in any judicial proceeding or any other proceeding resulting therefrom shall in so doing be immune from any civil or criminal liability that might otherwise be incurred or imposed, providing such participation pursuant to this Code section is made in good faith.

(d) Any person required to make a report pursuant to this Code section who knowingly and willfully fails to do so shall be guilty of a misdemeanor. (Code 1981, § 20-2-1184, enacted by Ga. L. 1990, p. 1834, § 1; Ga. L. 1994, p. 1012, § 7; Ga. L. 2010, p. 963, § 2-12/SB 308; Ga. L. 2014, p. 432, § 2-11/HB 826.)

The 2014 amendment, effective July 1, 2014, substituted the present provisions of subsection (a) for the former provisions, which read: "Any teacher or other person employed at any public or private elementary or secondary school or any dean or public safety officer employed by a college or university who has reasonable cause to believe that a student at that school has committed any act upon school property or at any school function, which act is prohibited by any of the following:

"(1) Code Section 16-5-21, relating to

aggravated assault if a firearm is involved;

"(2) Code Section 16-5-24, relating to aggravated battery;

"(3) Chapter 6 of Title 16, relating to sexual offenses;

"(4) Code Section 16-11-127, relating to carrying a weapon or long gun in an unauthorized location;

"(5) Code Section 16-11-127.1, relating to carrying weapons at school functions or on school property or within school safety zones;

“(6) Code Section 16-11-132, relating to the illegal possession of a handgun by a person under 18 years of age; or

“(7) Code Section 16-13-30, relating to possession and other activities regarding marijuana and controlled substances,

“shall immediately report the act and the name of the student to the principal or president of that school or the principal’s or president’s designee.”

20-2-1185. School safety plans.

(a) Every public school shall prepare a school safety plan to help curb the growing incidence of violence in schools, to respond effectively to such incidents, and to provide a safe learning environment for Georgia’s children, teachers, and other school personnel. Such plan shall also address preparedness for natural disasters, hazardous materials or radiological accidents, acts of violence, and acts of terrorism. School safety plans of public schools shall be prepared with input from students enrolled in that school, parents or legal guardians of such students, teachers in that school, community leaders, other school employees and school district employees, and local law enforcement, fire service, public safety, and emergency management agencies. School safety plans of private schools may be prepared with input from students enrolled in that school, parents or legal guardians of such students, teachers in that school, other school employees, and local law enforcement, fire service, public safety, and emergency management agencies. Such plans shall be reviewed and, if necessary, updated annually. Such plans of public schools shall be submitted to the local emergency management agency.

(b) A public school may request funding assistance from the state for the installation of safety equipment including, but not limited to, video surveillance cameras, metal detectors, and other similar security devices. Funding may be provided to a public school in accordance with a school safety plan prepared by the school and approved by the local board of education, the Department of Education, and the Georgia Emergency Management Agency.

(c) School safety plans prepared by public schools shall address security issues in school safety zones as defined in Code Section 16-11-127.1. School safety plans should also address security issues involving the transportation of pupils to and from school and school functions when such transportation is furnished by the school or school system and school functions held during noninstructional hours.

(d) The Georgia Emergency Management Agency shall provide training and technical assistance to public school systems, and may provide this same training and technical assistance to private school systems, and independent private schools throughout this state in the area of emergency management and safe school operations. This training and

technical assistance shall include, but not be limited to, crisis response team development, site surveys and safety audits, crisis management planning, exercise design, safe school planning, emergency operations planning, search and seizure, bomb threat management, and model school safety plans. (Code 1981, § 20-2-1185, enacted by Ga. L. 1994, p. 1012, § 3; Ga. L. 1999, p. 379, § 1; Ga. L. 2014, p. 432, § 2-12/HB 826; Ga. L. 2014, p. 599, § 3-5/HB 60.)

The 2014 amendments. — The first 2014 amendment, effective July 1, 2014, deleted “paragraph (1) of subsection (a) of” following “as defined in” in the first sentence of subsection (c). The second 2014 amendment, effective July 1, 2014, made identical changes.

Cross references. — Carrying weapons within certain school safety zones and at school functions, § 16-11-130.1.

Editor’s notes. — Ga. L. 2014, p. 599, § 1-1/HB 60, not codified by the General Assembly, provides: “This Act shall be known and may be cited as the ‘Safe Carry Protection Act.’”

Law reviews. — For article, “Students, Security, and Race,” see 63 Emory L. J. 1 (2013).

ARTICLE 31

CHARTER SCHOOLS ACT OF 1998

Law reviews. — For article, “Having it Both Ways: How Charter Schools Try to Obtain Funding of Public Schools and the

Autonomy of Private Schools,” see 63 Emory L. J. 303 (2013).

20-2-2062. Definitions.

As used in this article, the term:

(1) “Charter” means a performance based contract between a local board and a charter petitioner, the terms of which are approved by the local board and by the state board in the case of a local charter school, between the state board and a charter petitioner, the terms of which are approved by the state board in the case of a state chartered special school, or between a local board and the state board, the terms of which are approved by the state board in the case of a charter system. By entering into a charter, a charter petitioner and local board shall be deemed to have agreed to be bound to all the provisions of this article as if such terms were set forth in the charter.

(1.1) “Charter attendance zone” means all or any portion of the local school system in which the charter school is located and may include all or any portion of other local school systems if the charter school is jointly authorized pursuant to subsection (c) of Code Section 20-2-2063.

(2) “Charter petitioner” means a local school, local board of education, private individual, private organization, or state or local public entity that submits or initiates a petition for a charter. The term

“charter petitioner” does not include home study programs or schools, sectarian schools, religious schools, private for profit schools, private educational institutions not established, operated, or governed by the State of Georgia, or existing private schools. On and after July 1, 2013, a charter for a local charter school, if approved, shall be a three-party agreement between a charter petitioner, a local board of education, and the State Board of Education, and the charter petitioner for such local charter school shall be a party other than the local board of education.

(3) “Charter school” means a public school that is operating under the terms of a charter.

(3.1) “Charter system” means a local school system that is operating under the terms of a charter pursuant to Code Section 20-2-2063.2.

(4) “Conversion charter school” means a charter school that existed as a local school prior to becoming a charter school.

(5) “Faculty and instructional staff members” means all certificated personnel assigned to the school on a full-time basis and all paraprofessionals assigned to the school on a full-time basis. The term “paraprofessional” shall have the same meaning as set out in Code Section 20-2-204.

(5.1) “Governing council” means a school level council of parents, teachers, administrators, and others who are involved in school level governance within a charter system.

(5.2) “High school cluster” means a high school and all of the middle and elementary schools which contain students who matriculate to such high school. The schools in a high school cluster may include charter schools, local schools, or a combination of both.

(6) “Local board” means a county or independent board of education exercising control and management of a local school system pursuant to Article VIII, Section V, Paragraph II of the Constitution.

(7) “Local charter school” means a conversion charter school or start-up charter school that is operating under the terms of a charter between the charter petitioner and the local board.

(8) “Local revenue” means local taxes budgeted for school purposes in excess of the local five mill share, combined with any applicable equalization grant and budgeted revenues from any of the following: investment earnings, unrestricted donations, and the sale of surplus property; but exclusive of revenue from bonds issued for capital projects, revenue to pay debt service on such bonds and local option sales tax for capital projects. Nothing in this paragraph shall be

construed to prevent a local board from including a local charter school in projects specified in the ballot language of a local option sales tax or bond referendum.

(9) “Local school” means a public school in Georgia that is under the management and control of a local board.

(10) “Local school system” means the system of public schools established and maintained by a local board within its limits pursuant to Article VIII, Section V, Paragraph I of the Constitution.

(11) “Petition” means a proposal to establish a charter school or a charter system.

(12) “QBE formula earnings” means funds earned for the Quality Basic Education Formula pursuant to Code Section 20-2-161, including the portion of such funds that are calculated as the local five mill share in accordance with Code Section 20-2-164.

(12.1) “School level governance” means decision-making authority in personnel decisions, financial decisions, curriculum and instruction, resource allocation, establishing and monitoring the achievement of school improvement goals, and school operations.

(13) “Special school” means a school whose creation is authorized pursuant to Article VIII, Section V, Paragraph VII of the Constitution.

(14) “Start-up charter school” means a charter school that did not exist as a local school prior to becoming a charter school.

(15) “State board” means the State Board of Education.

(16) “State chartered special school” means a charter school created as a special school that is operating under the terms of a charter between the charter petitioner and the state board.

(17) “System charter school” means a school within a charter system. (Code 1981, § 20-2-2062, enacted by Ga. L. 1998, p. 1080, § 3; Ga. L. 2001, p. 148, § 22; Ga. L. 2002, p. 388, § 1; Ga. L. 2005, p. 798, §§ 7, 8/SB 35; Ga. L. 2007, p. 185, § 3/SB 39; Ga. L. 2013, p. 1061, § 24/HB 283; Ga. L. 2014, p. 866, § 20/SB 340.)

The 2013 amendment, effective July 1, 2013, in paragraph (2), inserted “or initiates” near the end of the first sentence, and added the third sentence.

The 2014 amendment, effective April

29, 2014, part of an Act to revise, modernize, and correct the Code, substituted “Code Section 20-2-2063.2” for “Code Section 20-2-2063.1” at the end of paragraph (3.1).

JUDICIAL DECISIONS

Start-up charter schools funding. — Pursuant to the plain language of O.C.G.A. § 20-2-2068.1(c), a school system and school board had no authority or discretion to deduct the system's unfunded pension expense of \$ 38.6 million from their calculation of local revenue to be distributed to start-up charter schools; the start-up charter schools were entitled to mandamus relief. *Atlanta Indep. Sch. Sys. v. Atlanta Neighborhood Charter Sch.*, 293 Ga. 629, 748 S.E.2d 884 (2013).

20-2-2064. Approval or denial of petition.

(a) A charter petitioner seeking to create a conversion charter school must submit a petition to the local board of the local school system in which the proposed charter school will be located. The local board must by a majority vote approve or deny a petition no later than 90 days after its submission unless the petitioner requests an extension; provided, however, that a denial of a petition by a local board shall not preclude the submission to the local board of a revised petition that addresses deficiencies cited in the denial; and provided, further, that the local board shall not act upon a petition for a conversion charter school, including, but not limited to, a conversion charter for a high school cluster, until such petition:

(1)(A) Has been freely agreed to, by secret ballot, by a majority of the faculty and instructional staff members of the petitioning local school at a public meeting called with two weeks' advance notice for the purpose of deciding whether to submit the petition to the local board for its approval; and

(B) Has been freely agreed to, by secret ballot, by a majority of the parents or guardians of students enrolled in the petitioning local school present at a public meeting called with two weeks' advance notice for the purpose of deciding whether to submit the petition to the local board for its approval; or

(2) If for a high school cluster, has been approved by a majority of the school councils in the high school cluster and has been freely agreed to, by secret ballot, by at least 60 percent of the combined vote of the faculty and instructional staff members of the high school cluster and the parents or guardians of students who reside in the attendance zone of such high school cluster present at a public meeting called with two weeks' advance notice for the purpose of deciding whether to submit the petition to the local board for its approval. Each school council within the high school cluster shall appoint two representatives to a committee that shall conduct the vote.

This subsection shall not apply to a system charter school petitioning to be a conversion charter school.

(b) A charter petitioner seeking to create a start-up charter school must submit a petition to the local board of the local school system in which the proposed charter school will be located. The local board must by a majority vote approve or deny a petition no later than 90 days after its submission unless the petitioner requests an extension. A denial of a petition by a local board shall not preclude the submission to the local board of a revised petition that addresses deficiencies cited in the denial.

(c) A system charter school's school council or governing council, as applicable, may petition to become a conversion charter school. The petition shall be submitted to the local board of the charter system in which the school is located. The local board must by a majority vote approve or deny a petition no later than 90 days after its submission unless the petitioner requests an extension; provided, however, that a denial of a petition by a local board shall not preclude the submission to the local board of a revised petition that addresses deficiencies cited in the denial.

(d) A local board shall approve a petition that complies with the rules, regulations, policies, and procedures promulgated in accordance with Code Section 20-2-2063 and the provisions of this title and is in the public interest. If a local board denies a petition, it must within 60 days specifically state the reasons for the denial, list all deficiencies with respect to Code Section 20-2-2063, and provide a written statement of the denial to the charter petitioner and the state board.

(e) The state board or the Charter Advisory Committee, if directed by the state board to do so, may mediate between the local board and a charter petitioner whose petition was denied to assist in resolving issues which led to denial of the petition by the local board. (Code 1981, § 20-2-2064, enacted by Ga. L. 1998, p. 1080, § 3; Ga. L. 2000, p. 618, § 74; Ga. L. 2002, p. 388, § 1; Ga. L. 2004, p. 107, § 19B; Ga. L. 2007, p. 185, § 6/SB 39; Ga. L. 2010, p. 551, § 1/SB 457; Ga. L. 2013, p. 1061, § 26/HB 283.)

The 2013 amendment, effective July 1, 2013, substituted "90 days" for "60 days" in the second sentence of subsections (a) and (b) and in the third sentence of subsection (c).

20-2-2065. Waiver of provisions of this title; requirements for operating; control and management.

(a) Except as provided in this article or in a charter, a charter school, or for charter systems, each school within the system, shall not be subject to the provisions of this title or any state or local rule, regulation, policy, or procedure relating to schools within an applicable school system regardless of whether such rule, regulation, policy, or

procedure is established by the local board, the state board, or the Department of Education; provided, however, that the state board may establish rules, regulations, policies, or procedures consistent with this article relating to charter schools. A waiver granted pursuant to this Code section for a charter system shall apply to each system charter school within the system. In exchange for such a waiver, the charter school agrees to meet or exceed the performance based goals included in the charter and approved by the local board or, for the charter system, the system agrees to meet or exceed the system-wide performance based goals included in the charter and approved by the state board, including but not limited to raising student achievement. For a charter system, the charter shall delineate the performance based goals that the system and each school will be expected to meet as well as the criteria by which a system charter may be revoked in addition to those contained in Code Section 20-2-2068.

(b) In determining whether to approve a charter petition or renew an existing charter, the local board and state board shall ensure that a charter school, or for charter systems, each school within the system, shall be:

(1) A public, nonsectarian, nonreligious, nonprofit school that is not home based, provided that a charter school's nonprofit status shall not prevent the school from contracting for the services of a for profit entity and that nothing in this Code section shall preclude the use of computer and Internet based instruction for students in a virtual or remote setting;

(2) Subject to the control and management of the local board of the local school system in which the charter school is located, as provided in the charter and in a manner consistent with the Constitution, if a local charter school;

(3) Subject to the supervision of the state board, as provided in the charter and in a manner consistent with the Constitution, if a state chartered special school;

(4) Organized and operated as a nonprofit corporation under the laws of this state; provided, however, that this paragraph shall not apply to any charter petitioner that is a local school, local school system, or state or local public entity;

(5) Subject to all federal, state, and local rules, regulations, court orders, and statutes relating to civil rights; insurance; the protection of the physical health and safety of school students, employees, and visitors; conflicting interest transactions; and the prevention of unlawful conduct; provided, however, that if:

(A) A facility used for a charter school is owned or operated by any state agency or entity, and such facility or equipment pur-

chased or used by the facility meets the safety standards of the state agency or entity that owns or operates such facility; or

(B) A facility used for a charter school is owned by a local educational agency and operated utilizing standards of a state agency or entity, and such facility or equipment purchased or used by the facility meets the safety standards of the state agency or entity with respect to structural soundness and sufficient maintenance,

the facility or equipment or both shall be deemed to meet the safety requirements of this paragraph; provided, further, that in no event shall the state agency or entity or local educational agency owner or operator of a charter school with such facility or equipment be disqualified from eligibility for state grants or for federal grants awarded pursuant to state regulations due to such facility or equipment;

(6) Subject to all laws relating to unlawful conduct in or near a public school;

(7) Subject to an annual financial audit conducted by the state auditor or, if specified in the charter, by an independent certified public accountant licensed in this state; provided, however, that a separate audit shall not be required for a charter school if the charter school is included in the local school system audit conducted by the state auditor pursuant to Code Section 50-6-6;

(8) Subject to the provisions of Part 3 of Article 2 of Chapter 14 of this title, and such provisions shall apply with respect to charter schools whose charters are granted or renewed on or after July 1, 2000;

(9) Subject to all reporting requirements of Code Section 20-2-160, subsection (e) of Code Section 20-2-161, Code Section 20-2-320, and Code Section 20-2-740;

(10) Subject to the requirement that it shall not charge tuition or fees to its students except as may be authorized for local boards by Code Section 20-2-133;

(11) Subject to the provisions of Code Section 20-2-1050 requiring a brief period of quiet reflection;

(12) Subject to the provisions of Code Section 20-2-211.1 relating to fingerprint and criminal background checks; and

(13) Subject to the provisions of subsection (c) of Code Section 20-2-327 relating to individual graduation plans. (Code 1981, § 20-2-2065, enacted by Ga. L. 1998, p. 1080, § 3; Ga. L. 2000, p. 618, § 75; Ga. L. 2002, p. 388, § 1; Ga. L. 2005, p. 798, § 12/SB 35; Ga. L.

2006, p. 488, § 1/SB 610; Ga. L. 2007, p. 185, § 8/SB 39; Ga. L. 2010, p. 237, § 1G/HB 1079; Ga. L. 2011, p. 635, § 9/HB 186; Ga. L. 2013, p. 1061, § 27/HB 283.)

The 2013 amendment, effective July 1, 2013, in paragraph (b)(5), added “provided, however, that if:” at the end, added subparagraphs (5)(A) and (5)(B), and

added the ending undesignated paragraph; and added the proviso at the end of paragraph (b)(7).

20-2-2066. Admission, enrollment, and withdrawal of students.

(a) A local charter school shall enroll students in the following manner:

(1)(A) A start-up charter school shall enroll any student who resides in the charter attendance zone as specified in the charter and who submits a timely application as specified in the charter unless the number of applications exceeds the capacity of a program, class, grade level, or building. In such case, all such applicants shall have an equal chance of being admitted through a random selection process unless otherwise prohibited by law; provided, however, that a start-up charter school may give enrollment preference to applicants in any one or more of the following categories in the order of priority specified in the charter:

(i) A sibling of a student enrolled in the start-up charter school;

(ii) A sibling of a student enrolled in another local school designated in the charter;

(iii) A student whose parent or guardian is a member of the governing board of the charter school or is a full-time teacher, professional, or other employee at the charter school;

(iv) Students matriculating from a local school designated in the charter; and

(v) Children who matriculate from a pre-kindergarten program which is associated with the school, including, but not limited to, programs which share common facilities or campuses with the school or programs which have established a partnership or cooperative efforts with the school; and

(B) A conversion charter school shall enroll any student who resides in the attendance zone specified in the charter and who submits a timely application as specified in the charter. If the number of applying students who reside in the attendance zone does not exceed the capacity as specified in the charter, additional students shall be enrolled based on a random selection process;

provided, however, that enrollment preferences may be given to applicants in any one or more of the following categories in the order of priority specified in the charter:

(i) A sibling of a student enrolled in the charter school or in any school in the high school cluster;

(ii) Students whose parent or guardian is a member of the governing board of the charter school or is a full-time teacher, professional, or other employee at the charter school;

(iii) Students who were enrolled in the local school prior to its becoming a charter school;

(iv) Students who reside in the charter attendance zone specified in the charter; and

(v) Children who matriculate from a pre-kindergarten program which is associated with the school, including, but not limited to, programs which share common facilities or campuses with the school or programs which have established a partnership or cooperative efforts with the school; and

(2) A student who resides outside the school system in which the local charter school is located may not enroll in that local charter school except pursuant to a contractual agreement between the local boards of the school system in which the student resides and the school system in which the local charter school is located. Unless otherwise provided in such contractual agreement, a local charter school may give enrollment preference to a sibling of a nonresident student currently enrolled in the local charter school.

(b) A state chartered special school shall enroll any student who resides in the attendance zone specified in the charter and who submits a timely application as specified in the charter unless the number of applications exceeds the capacity of a program, class, grade level, or building. The period of time during which an application for enrollment may be submitted shall be specified in the charter. In such case, all such applicants shall have an equal chance of being admitted through a random selection process unless otherwise prohibited by law; provided, however, that a state chartered special school may give enrollment preference to a child of a full-time teacher, professional, or other employee of the state chartered special school as provided for in subsection (b) of Code Section 20-2-293 or to a sibling of a student currently enrolled in the state chartered special school.

(b.1) A charter system shall enroll students in its system charter schools per the terms of the charter and in accordance with state board rules.

(c) A charter school shall not discriminate on any basis that would be illegal if used by a school system.

(d) A student may withdraw without penalty from a charter school at any time and enroll in a local school in the school system in which such student resides as may be provided for by the policies of the local board. A student who is suspended or expelled from a charter school as a result of a disciplinary action taken by a charter school shall be entitled to enroll in a local school within the local school system in which the student resides, if, under the disciplinary policy of the local school system, such student would not have been subject to suspension or expulsion for the conduct which gave rise to the suspension or expulsion. In such instances, the local board shall not be required to independently verify the nature or occurrence of the applicable conduct or any evidence relating thereto. (Code 1981, § 20-2-2066, enacted by Ga. L. 1998, p. 1080, § 3; Ga. L. 2002, p. 388, § 1; Ga. L. 2005, p. 798, § 13/SB 35; Ga. L. 2007, p. 185, § 9/SB 39; Ga. L. 2013, p. 1061, § 28/HB 283.)

The 2013 amendment, effective July 1, 2013, deleted “and” at the end of division (a)(1)(A)(iii); added “and” at the end of division (a)(1)(A)(iv); added division (a)(1)(A)(v); deleted “and” at the end of division (a)(1)(B)(iii); and added division (a)(1)(B)(v).

20-2-2067.1. Amendment of terms of charter for charter school; initial term of charter; annual report.

(a) The terms of a charter for a local charter school may be amended during the term of the charter upon the approval of the local board, the state board, and the charter school. The terms of a charter for a state chartered special school may be amended during the term of the charter upon the approval of the state board and the charter school. The terms of a charter for a charter system may be amended during the term of the charter upon approval of the state board and the local board.

(b) The initial term of a charter, except for a charter system, shall be for a minimum of five years, unless the petitioner shall request a shorter period of time, and shall not exceed ten years. The local board and the state board, in accordance with Code Section 20-2-2064.1, may renew a local charter, upon the request of the charter school, for the period of time specified in the request, not to exceed ten years. The state board may renew a state chartered special school, upon the request of the school, for the period of time specified in the request, not to exceed ten years. The initial term of a charter for a charter system shall not exceed five years. The state board may renew the charter of a charter system, upon the request of the local board, for the period of time specified in the request, not to exceed ten years.

(c) Each start-up and conversion charter school and each charter system shall submit an annual report outlining the previous year's progress to the authorizing local board or state board, as appropriate; to parents and guardians of students enrolled in the school, or, for a charter system, to parents and guardians of students enrolled in school within the local school system; and to the Department of Education no later than October 1 of each year. The report submitted by a charter system shall include, but not limited to, data on all of its system charter schools. The report shall contain, but is not limited to:

(1) An indication of progress toward the goals as included in the charter;

(2) Academic data for the previous year, including state academic accountability data, such as standardized test scores;

(3) Unaudited financial statements for the fiscal year ending on June 30, provided that audited statements will be forwarded to the local board and state board upon completion;

(4) Updated contact information for the school and the administrator, and for charter systems, each system charter school and its respective administrator;

(5) Proof of current nonprofit status, if applicable;

(6) Any other supplemental information that the charter school or charter system chooses to include or that the state board requests that demonstrates that school or system's success; and

(7) For charter systems:

(A) A description of:

(i) The actual authority exercised by governing councils with regard to each of the components of school level governance listed in paragraph (12.1) of Code Section 20-2-2062;

(ii) Training received by governing councils and school administrators; and

(iii) Steps, if any, the charter system plans to take to increase school level governance in the future;

(B) An itemization of initiatives being supported with the additional funding received by the charter system pursuant to Code Section 20-2-165.1 and how those funds have promoted school level governance or improved student achievement;

(C) A comparison of actual performance versus the performance based goals for the charter system set forth in the charter pursuant to Code Section 20-2-2065;

(D) The name and contact information of an employee of the charter system that can facilitate communications between the Office of Charter School Compliance and the chairpersons of the governing councils in the charter system; and

(E) An on-site external evaluation of the charter system at least once every five years, as determined by the state board. (Code 1981, § 20-2-2067.1, enacted by Ga. L. 2002, p. 388, § 1; Ga. L. 2005, p. 798, § 14/SB 35; Ga. L. 2007, p. 185, § 10/SB 39; Ga. L. 2013, p. 1061, § 29/HB 283.)

The 2013 amendment, effective July 1, 2013, deleted “and adequate yearly progress data” at the end of paragraph (c)(2); and substituted the present provisions of paragraph (c)(7) for the former

provisions, which read: “For charter systems, an on-site external evaluation of the system at least once every five years, as determined by the state board.”

20-2-2068. Termination of a charter.

(a) The state board may terminate a charter under the following circumstances:

(1)(A) If a majority of the parents or guardians of students enrolled at the charter school vote by a majority vote to request the termination of its charter at a public meeting called with two weeks’ advance notice and for the purpose of deciding whether to request the state board to declare the charter null and void; or

(B) If a majority of the faculty and instructional staff employed at the charter school vote by a majority vote to request the termination of its charter at a public meeting called with two weeks’ advance notice and for the purpose of deciding whether to request the state board to declare the charter null and void.

This paragraph shall not apply to system charter schools;

(2) If, after providing reasonable notice to the charter school or charter system, as applicable, and an opportunity for a hearing, the state board finds through its own audit or through other means:

(A) A failure to comply with any recommendation or direction of the state board with respect to Code Section 20-14-41;

(B) A failure to adhere to any material term of the charter, including but not limited to the performance goals set forth in the charter;

(C) For a charter system, a failure to promote school level governance as required by the charter;

(D) A failure to meet generally accepted standards of fiscal management;

(E) A violation of applicable federal, state, or local laws or court orders;

(F) The existence of competent substantial evidence that the continued operation of the charter school or charter system would be contrary to the best interests of the students or the community; or

(G) A failure to comply with any provision of Code Section 20-2-2065; or

(3) Upon the written request of a local board for termination of a charter for a local charter school located within its school system if, prior to making such request, the local board provided reasonable notice to the charter school and an opportunity for a hearing, and determined the existence of any of the grounds described in paragraph (2) of this Code section.

(b) For a system charter school, if the school council or governing council, as applicable, at such school within the charter system requests that:

(1) The system charter be terminated; or

(2) The system charter be amended with respect to such system charter school,

the state board, after providing reasonable notice to the charter system and the system charter school, shall conduct a hearing. Based on the findings of the hearing, the state board may enter into negotiations with the charter system to amend the charter to address the concerns of the requesting system charter school. If negotiations fail and the state board finds good cause, the state board shall be authorized to terminate the system charter or to amend the system charter with respect to the requesting system charter school; provided, however, that the local board shall be authorized to terminate the system charter if it is unwilling to accept the amendments to such charter by the state board. The term “good cause” includes but is not limited to a local board’s failure to comply with its obligations and duties under the system charter, state board rules, or other applicable law, or other good cause as determined in the sole discretion of the state board. (Code 1981, § 20-2-2068, enacted by Ga. L. 1998, p. 1080, § 3; Ga. L. 1999, p. 81, § 20; Ga. L. 2002, p. 388, § 1; Ga. L. 2007, p. 185, § 11/SB 39; Ga. L. 2008, p. 324, § 20/SB 455; Ga. L. 2013, p. 1061, § 30/HB 283.)

The 2013 amendment, effective July 1, 2013, added “through its own audit or through other means” at the end of paragraph (a)(2); added subparagraph

(a)(2)(C); and redesignated former subparagraphs (a)(2)(C) through (a)(2)(F) as present subparagraphs (a)(2)(D) through (a)(2)(G), respectively.

20-2-2068.1. Charter school funding.

Law reviews. — For article, “Having it Both Ways: How Charter Schools Try to Obtain Funding of Public Schools and the Autonomy of Private Schools,” see 63 Emory L. J. 303 (2013).

JUDICIAL DECISIONS

Deducting unfunded pension expenses from start-up charter schools prohibited. — Pursuant to the plain language of O.C.G.A. § 20-2-2068.1(c), a school system and school board had no authority or discretion to deduct the system’s unfunded pension expense of \$ 38.6 million from their calculation of local revenue to be distributed to start-up charter schools; the start-up charter schools were entitled to mandamus relief. Atlanta Indep. Sch. Sys. v. Atlanta Neighborhood Charter Sch., 293 Ga. 629, 748 S.E.2d 884 (2013).

20-2-2068.2. Facilities fund for charter schools; purposes for which funds may be used; upkeep of charter school property; availability of unused facilities.

(a) From moneys specifically appropriated for such purpose, the state board shall create a facilities fund for local charter schools, state chartered special schools, and state charter schools as defined in Code Section 20-2-2081 for the purpose of establishing a per pupil, need based facilities aid program.

(b) A charter school or state charter school may receive moneys from the facilities fund if the charter school or state charter school has received final approval from the State Charter Schools Commission or from the state board for operation during that fiscal year.

(c) A charter school’s or state charter school’s governing body may use moneys from the facilities fund for the following purposes:

- (1) Purchase of real property;
- (2) Construction of school facilities, including initial and additional equipment and furnishings;
- (3) Purchase, lease-purchase, or lease of permanent or relocatable school facilities;
- (4) Purchase of vehicles to transport students to and from the charter school or state charter school; and
- (5) Renovation, repair, and maintenance of school facilities that the school owns or is purchasing through a lease-purchase or long-term lease of three years or longer.

(d) The Department of Education shall specify procedures for submitting and approving requests for funding under this Code section and for documenting expenditures.

(e) Local boards are required to renovate, repair, and maintain the school facilities of charter schools in the district to the same extent as other public schools in the district if the local board owns the charter school facility, unless otherwise agreed upon by the petitioner and the local board in the charter.

(f)(1) Prior to releasing moneys from the facilities fund, the Department of Education shall ensure that the governing board of the local charter school and the local board shall enter into a written agreement that includes a provision for the reversion of any unencumbered funds and all equipment and property purchased with public education funds to the ownership of the local board in the event the local charter school terminates operations.

(2) Prior to releasing moneys from the facilities fund, the Department of Education shall ensure that the governing board of the state chartered special school and the state board shall enter into a written agreement that includes a provision for the reversion of any unencumbered funds and all equipment and property purchased with public education funds to the ownership of the state board in the event the state chartered special school terminates operations.

(3) Prior to releasing moneys from the facilities fund, the Department of Education shall ensure that the governing board of the state charter school and the State Charter Schools Commission shall enter into a written agreement that includes a provision for the reversion of any unencumbered funds and all equipment and property purchased with public education funds to the ownership of the State Charter Schools Commission in the event the state charter school terminates operations.

(g) The reversion of property in accordance with subsection (f) of this Code section is subject to the complete satisfaction of all lawful liens or encumbrances.

(h) Each local board of education shall make its unused facilities available to local charter schools. The terms of the use of such a facility by the charter school shall be subject to negotiation between the board and the local charter school and shall be memorialized as a separate agreement. A local charter school that is allowed to use such a facility under such an agreement shall not sell or dispose of any interest in such property without the written permission of the local board. A local charter school may not be charged a rental or leasing fee for the existing facility or for property normally used by the public school which became the local charter school. A local charter school that receives property from a local board may not sell or dispose of such property without the written permission of the local board. (Code 1981, § 20-2-2068.2, enacted by Ga. L. 2004, p. 107, § 19C; Ga. L. 2005, p. 798, § 16/SB 35; Ga. L. 2009, p. 727, § 1/HB 555; Ga. L. 2013, p. 1061, § 31/HB 283.)

The 2013 amendment, effective July 1, 2013, substituted “state charter” for “commission charter” and “State Charter Schools Commission” for “Georgia Charter

Schools Commission” throughout this Code section; and substituted “three years” for “five years” near the end of paragraph (c)(5).

20-2-2071. Validity of charters in effect on July 1, 1998.

Editor’s notes. — Code Section 20-2-255, referred to in this Code section, was repealed by Ga. L. 1998, p. 1080, § 1, effective July 1, 1998.

20-2-2072. Training for board members.

The members of the governing board of the nonprofit organization of each charter school shall participate in initial training for boards of newly approved charter schools and annual training thereafter, conducted or approved by the state board. The state board shall provide for or approve such initial and annual training. For charter schools that are college and career academies, as defined in subsection (b) of Code Section 20-4-37, the state board shall provide or approve such training in conjunction with the Technical College System of Georgia. The training shall include, but not be limited to, best practices on school governance, the constitutional and statutory requirements relating to public records and meetings, and the requirements of applicable statutes and rules and regulations. (Code 1981, § 20-2-2072, enacted by Ga. L. 2014, p. 164, § 1/HB 405.)

Effective date. — This Code section became effective July 1, 2014.

ARTICLE 31A

STATE CHARTER SCHOOLS

Effective date. — This article became effective January 1, 2013.

Editor’s notes. — Ga. L. 2012, p. 1298, § 3/HB 797, not codified by the General Assembly, provided that this article shall be repealed effective January 1, 2013, and that a new article shall be enacted, only if a Constitutional amendment expressly authorizing the General Assembly to create state charter schools as special schools was ratified at the November 2012, general election. Ga. L. 2012, p. 1364/HR 1162 was ratified at the election held on November 6, 2012.

Ga. L. 2012, p. 1298, § 1/HB 797, repealed the Code sections formerly codified at this article and enacted the current article. The former article consisted of Code Sections 20-2-2080 through 20-2-2092, relating to the Georgia Charter Schools Commission, and was based on Code 1981, §§ 20-2-2080—20-2-2092, enacted by Ga. L. 2008, p. 603, § 1/HB 881; Ga. L. 2009, p. 8, § 20/SB 46.

Law reviews. — For article on the 2012 enactment of this article, see 29 Ga. St. U.L. Rev. 1 (2012).

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Article 31A, Code Section 20-2-2080 et seq., which was subsequently repealed but was succeeded by provisions in this article, are included in the annotations for this Code section.

Constitutionality. — Georgia Charter Schools Commission Act, O.C.G.A. § 20-2-2081 et seq., violated the special schools provision of Ga. Const. 1983, Art. VIII, Sec. V, Para. VII(a) by authorizing a state commission to establish competing state-created general K-12 schools under

the guise of being special schools. The special schools authorized by the constitution were not competitors with locally controlled schools in regard to the education of general K-12 students; rather, the constitutionally significant matters that made a school “special” were directly related to the school itself, the school’s student body and the school’s curriculum. *Gwinnett County Sch. Dist. v. Cox*, 289 Ga. 265, 710 S.E.2d 773 (2011) (decided under former O.C.G.A. § 20-2-2080 et seq.)

OPINIONS OF THE ATTORNEY GENERAL

Editor's notes. — In light of the similarity of the statutory provisions, opinions under former Article 31A, Code Section 20-2-2080 et seq., which was subsequently repealed but was succeeded by provisions in this article, are included in the annotations for this Code section.

Membership in the Teachers Retirement System. — Unless and until the General Assembly adopts clarifying

legislation, it is within the sound discretion of the Teachers Retirement System Board of Trustees to determine whether teachers who are employed not less than half-time by commission charter schools must be members of the Teachers Retirement System. 2010 Op. Att’y Gen. No. 2010-5 (decided under former O.C.G.A. § 20-2-2080 et seq.).

20-2-2080. Legislative findings and intent.

(a) The General Assembly finds that:

(1) State charter schools can serve as a complement to the educational opportunities provided by local boards of education in the state’s system of public education; and

(2) State charter schools do not supplant public schools operated by local boards of education but provide options to enhance public educational opportunities.

(b) It is the intent of the General Assembly that there be established a state-level commission under the authority of the State Board of Education whose primary focus is the development and support of state charter schools in order to better meet the growing and diverse needs of students in this state and to further ensure that state charter schools of the highest academic quality are approved and supported throughout the state in an efficient manner. (Code 1981, § 20-2-2080, enacted by Ga. L. 2012, p. 1298, § 1/HB 797.)

Law reviews. — For article, “Education: Education’s Elusive Future, Storied

Past, and the Fundamental Inequities Between,” see 46 Ga. L. Rev. 557 (2012).

20-2-2081. Definitions.

As used in this article, the term:

(1) "Attendance zone" means all or a portion of a local school system, one or more local school systems or portions thereof, or all local school systems in this state.

(2) "Commission" means the State Charter Schools Commission established pursuant to Code Section 20-2-2082.

(3) "Department" means the state Department of Education.

(4) "Governing board" means the governing board of the nonprofit organization which is the charter petitioner for a state charter school and which is the same as the governing board of the state charter school which is involved in school-level governance of the state charter school.

(5) "State charter school" means a school authorized by the commission pursuant to this article whose creation is authorized as a special school pursuant to Article VIII, Section V, Paragraph VII of the Constitution. A state charter school shall be a public school.

The definitions set forth in Code Section 20-2-2062 shall be applicable to this article. (Code 1981, § 20-2-2081, enacted by Ga. L. 2012, p. 1298, § 1/HB 797.)

20-2-2082. State Charter Schools Commission; members; operations.

(a) The State Charter Schools Commission is established as a state-level authorizing entity working in collaboration with the Department of Education under the authority of the State Board of Education. Start-up funds necessary to establish and operate the commission may be received by the State Board of Education in addition to such other funds as may be appropriated by the General Assembly. The department shall assist in securing federal and other institutional grant funds to establish the commission.

(b) The commission shall be appointed by the State Board of Education and shall be composed of a total of seven members and made up of three appointees recommended by the Governor, two appointees recommended by the President of the Senate, and two appointees recommended by the Speaker of the House of Representatives. The Governor, the President of the Senate, and the Speaker of the House of Representatives shall each recommend a list of no fewer than two nominees for each appointment to the commission. The appointments shall be made as soon as feasible but no later than the first regular meeting of the

State Board of Education in February, 2013. Each member shall serve a term of two years; provided, however, that, for the purpose of providing staggered terms, of the initial appointments, three members shall be appointed to one-year terms and four members shall be appointed to two-year terms as determined by the State Board of Education. Thereafter, each appointee shall serve a two-year term unless the State Board of Education, after review and upon recommendation by the initial recommending authority, extends the appointment. If a vacancy occurs on the commission, it shall be filled by the State Board of Education from a recommendation by the appropriate authority according to the procedure set forth in this subsection. The members of the commission shall annually vote to appoint a chairperson and a vice chairperson from among its membership. Each member of the commission shall hold a bachelor's degree or higher, and the commission should include a group of diverse individuals representative of Georgia's school population, to the extent possible, with respect to race, sex, and geography who have experience in finance, administration, law, and education.

(c) The commission is encouraged to convene its first meeting no later than March 1, 2013, and thereafter shall meet at least bimonthly at the call of the chairperson or upon the request of four members of the commission. Four members of the commission shall constitute a quorum.

(d) The commission shall determine the manner in which it reviews state charter school petitions and may, in its discretion, use existing department personnel to conduct such review.

(e) The members of the commission shall not be compensated for their services on the commission but may be reimbursed for per diem and travel expenses in the same manner as provided for in Code Section 45-7-21.

(f) No commission member shall solicit or accept any gift, favor, loan, contribution, service, promise of future employment, or other thing of value based upon an understanding that the gift, favor, loan, contribution, service, promise, or other thing of value was given or offered for the purpose of influencing that commission member in the discharge of his or her duties as a commission member. (Code 1981, § 20-2-2082, enacted by Ga. L. 2012, p. 1298, § 1/HB 797.)

20-2-2083. Powers and duties of commission.

(a) The commission shall have the power to:

(1) Approve or deny petitions for state charter schools and renew, nonrenew, or terminate state charter school petitions in accordance

with rules and regulations established pursuant to this article. At its discretion, the commission may preliminarily approve a petition for a state charter school before the petitioner has secured space, equipment, or personnel, if the petitioner indicates such preliminary approval is necessary for it to raise working capital. The State Board of Education shall review and may overrule the approval or renewal of a state charter school by the commission within 60 days of such decision by the commission upon a majority vote of the members of the state board; and

(2) Conduct facility and curriculum reviews of state charter schools.

(b) The commission shall have the following duties:

(1) Review petitions for state charter schools and assist in the establishment of state charter schools throughout this state. The commission shall ensure that all charters for state charter schools are consistent with state education goals;

(2) Develop, promote, and disseminate best practices for state charter schools in order to ensure that high-quality schools are developed and encouraged. At a minimum, the best practices shall encourage the development and replication of academically and financially proven state charter school programs;

(3) Develop, promote, and require high standards of accountability for state charter schools. The commission shall ensure that each state charter school participates in the state's education accountability system. If a state charter school falls short of performance measures included in the approved charter, the commission shall report such shortcomings to the Department of Education;

(4) Monitor and annually review and evaluate the academic and financial performance, including revenues and expenditures, of state charter schools and hold the schools accountable for their performance pursuant to the charter and to the provisions of this article. The commission shall also review the citizenship and immigration status of each individual that works at a state charter school and aggregate the information by school on an annual basis. The commission's duties to monitor the state charter school shall not constitute the basis for a private cause of action;

(5) Direct state charter schools and persons seeking to establish state charter schools to sources of private funding and support;

(6) Actively seek, with the assistance of the department, supplemental revenue from federal grant funds, institutional grant funds, and philanthropic organizations. The commission may receive and

expend gifts, grants, and donations of any kind from any public or private entity to carry out the purposes of this article;

(7) Review and recommend to the General Assembly any necessary revisions to statutory requirements regarding standards and accountability for state charter schools;

(8) Act as liaison for state charter schools in cooperating with local boards of education that may choose to allow state charter schools to utilize excess space within school facilities;

(9) Encourage collaboration with municipalities, counties, consolidated governments, universities or colleges of the board of regents, technical institutions of the Technical College System of Georgia, and regional educational service agencies;

(10) Meet the needs of state charter schools and local school systems by uniformly administering high-quality state charter schools, thereby removing administrative burdens from the local school systems;

(11) Assist state charter schools in negotiating and contracting with local boards of education that choose to provide certain administrative or transportation services to the state charter schools on a contractual basis; and

(12) Provide for or approve initial training for boards of newly approved state charter schools and annual training thereafter, as determined by the commission, for members of state charter school governing boards. For charter schools that are college and career academies, as defined in subsection (b) of Code Section 20-4-37, the commission shall provide or approve such training in conjunction with the Technical College System of Georgia. The training shall include, but not be limited to, best practices on school governance, the constitutional and statutory requirements relating to public records and meetings, and the requirements of applicable statutes and rules and regulations.

(c)(1) The commission shall establish rules and regulations requiring each state charter school to provide adequate notice of its enrollment procedures, including any provision for the use of a random selection process where all applicants have an equal chance of being admitted in the event that the number of applications to enroll in the school exceeds the capacity of the program, grade, or school.

(2) The commission shall provide adequate notice to local boards of education and to the public regarding meetings to be held by the commission. Such notice shall include the charter petitions to be discussed and acted upon. Such notice shall be provided in accordance with Chapter 14 of Title 50, relating to open and public

meetings. (Code 1981, § 20-2-2083, enacted by Ga. L. 2012, p. 1298, § 1/HB 797; Ga. L. 2014, p. 164, § 2/HB 405.)

The 2014 amendment, effective July 1, 2014, in paragraph (b)(12), in the first sentence, inserted “or approve initial training for boards of newly approved state charter schools and” and inserted “thereafter”, and added the second sentence.

20-2-2084. Petition for charter schools; requirements of school; governing board membership; annual training.

(a) Petitions submitted to the commission shall be subject to rules and regulations established pursuant to this article.

(b) The commission shall be authorized to approve a petition for a state charter school that meets the following requirements:

(1) Has a state-wide attendance zone; or

(2)(A) Has a defined attendance zone; and

(B) Demonstrates that it has special characteristics, such as a special population, a special curriculum, or some other feature or features which enhance educational opportunities, which may include the demonstration of a need to enroll students across multiple communities or an alternative delivery system; provided, however, that the petitioner shall demonstrate a reasonable justification for any proposed special curriculum that has a narrow or limited focus.

(c)(1) For petitions for state charter schools with a state-wide attendance zone, the petitioner shall submit such petition to the commission and concurrently to the local board of education in which the school is proposed to be located for information purposes; provided, however, that this shall not apply to a proposed state charter school which will solely provide virtual instruction.

(2) For petitions for state charter schools with a defined attendance zone, the petitioner shall concurrently submit such petition to the commission, to the local board of education in which the school is proposed to be located, and to each local school system from which the proposed school plans to enroll students. The commission shall not act on a petition unless the local board of education in which the school is proposed to be located denies the petition; provided, however, that such local board shall approve or deny the petition no later than 60 days after its submission, as required pursuant to subsection (b) of Code Section 20-2-2064, unless the petitioner requested an extension. Failure to approve or deny such petition by such local board, in violation of Code Section 20-2-2064, shall be deemed a denial for purposes of this paragraph. A local board that has denied a

petition for a state charter school shall be permitted to present to the commission in writing or in person the reasons for denial and the deficiencies in such petition resulting in such denial.

(3) The commission may take into consideration any support or opposition by the local board of education or local boards of education on the start-up charter school petition when it votes to approve or deny a corresponding state charter school petition.

(d) A state charter school shall:

(1) Seek highly qualified, properly trained teachers and other qualified personnel for such schools; provided, however, that such schools shall give preference to hiring an individual who is a citizen or national of the United States over another individual who is not a citizen or national of the United States if the two individuals are equally qualified, unless a teacher is a foreign exchange teacher; provided, however, that prior to hiring an individual other than a citizen or national of the United States or a protected individual as defined in 8 U.S.C. Section 1324b, the school shall receive approval by the commission and demonstrate that qualified teachers and other personnel were sought but not available in such area which warrants hiring an individual other than a citizen or national of the United States or a protected individual as defined in 8 U.S.C. Section 1324b, unless a teacher is a foreign exchange teacher; provided, further, that the commission and the state charter school shall not construe this paragraph in a manner in violation of 8 U.S.C. Section 1324b or other provisions of law; and

(2) Give preference in contracting and purchasing of services and materials to businesses incorporated under the laws of this state or qualified to do business within this state and having a regularly maintained and established place of business within this state, so long as such businesses are otherwise similarly situated and qualified as compared to a business from out of state.

(e)(1) The members of the governing board for the state charter school shall meet the following qualifications:

(A) Must be a United States citizen;

(B) Must be a resident of Georgia; and

(C) Must not be an employee of the state charter school.

(2) No member of the governing board of the state charter school shall:

(A) Act in his or her official capacity in any matter where he or she, his or her immediate family member, or a business organization in which he or she has an interest has a material financial

interest that would reasonably be expected to impair his or her objectivity or independence of judgment;

(B) Solicit or accept or knowingly allow his or her immediate family member or a business organization in which he or she has an interest to solicit or accept any gift, favor, loan, political contribution, service, promise of future employment, or other thing of value based upon an understanding that the gift, favor, loan, contribution, service, promise, or other thing of value was given or offered for the purpose of influencing that board member in the discharge of his or her duties as a board member;

(C) Use, or knowingly allow to be used, his or her position or any information not generally available to the members of the public which he or she receives or acquires in the course of and by reason of his or her position for the purpose of securing financial gain for himself or herself, his or her immediate family member, or any business organization with which he or she is associated; or

(D) Be an officer or serve on the board of directors of any organization that sells goods or services to that state charter school.

As used in this paragraph, the term “immediate family member” means a spouse, child, sibling, or parent or the spouse of a child, sibling, or parent.

(f) The members of the governing board of each state charter school shall participate in initial training for boards of newly approved state charter schools and annual training thereafter conducted or approved by the commission pursuant to paragraph (12) of subsection (b) of Code Section 20-2-2083.

(g) An individual that works at a state charter school or an individual that has administrative oversight at a state charter school shall not serve on the board of directors of an organization that sells goods or services to such state charter school. (Code 1981, § 20-2-2084, enacted by Ga. L. 2012, p. 1298, § 1/HB 797; Ga. L. 2014, p. 164, § 3/HB 405.)

The 2014 amendment, effective July 1, 2014, in subsection (f), inserted “initial training for boards of newly approved state charter schools and”, inserted “thereafter”, and inserted “or approved”.

20-2-2085. Petitions by existing charter schools.

A petition may be submitted pursuant to this Code section by an existing charter school approved by a local board of education or the State Board of Education provided that the obligations of its charter with the local board of education or State Board of Education will expire prior to entering into a new charter with the commission. Upon the

existing charter school's request, a local board of education or the State Board of Education in the case of a state chartered special school may agree to rescind or waive the obligations of a current charter to allow a petition to be submitted by an existing charter school pursuant to this Code section. An existing charter school that is established as a state charter school pursuant to this Code section shall be allowed to continue the use of all facilities, equipment, and other assets it used prior to the expiration or rescission of its charter with a local board of education; provided, however, that the local board shall be authorized to charge or continue to charge a reasonable fee for use of the facilities. (Code 1981, § 20-2-2085, enacted by Ga. L. 2012, p. 1298, § 1/HB 797.)

20-2-2086. Information to parents.

The commission shall provide maximum access to information regarding state charter schools to all parents in this state. It shall maintain information systems, including, but not limited to, a user-friendly Internet website, that will provide information and data necessary for parents to make informed decisions. At a minimum, the commission shall provide parents with information on its accountability standards, links to state charter schools throughout this state, and public education programs concerning state charter schools. (Code 1981, § 20-2-2086, enacted by Ga. L. 2012, p. 1298, § 1/HB 797.)

20-2-2087. Annual report of chairperson.

Each year, the chairperson of the commission shall appear before the State Board of Education and submit a report regarding the academic performance and fiscal responsibility of all state charter schools approved under this article. (Code 1981, § 20-2-2087, enacted by Ga. L. 2012, p. 1298, § 1/HB 797.)

20-2-2088. Debts of non-renewed or terminated charter schools.

If a charter for a state charter school is not renewed or is terminated, the state charter school shall be responsible for all debts of such school. Neither the state, the State Board of Education, or the commission shall be liable for any debts of the school in the event the charter is not renewed or is terminated. The local school system may not assume the debt from any contract for services made between the governing body of the state charter school and a third party, except for a debt for which the local school system has agreed upon in writing to assume responsibility. (Code 1981, § 20-2-2088, enacted by Ga. L. 2012, p. 1298, § 1/HB 797.)

20-2-2089. Funding for state charter schools.

(a)(1) The earnings for a student in a state charter school shall be equal to the earnings for any other student with similar student

characteristics in a state charter school, regardless of the local school system in which the student resides or the school system in which the state charter school is located, and, except as otherwise provided in paragraph (2) of this subsection, the department shall pay to each state charter school through appropriation of state funds an amount equal to the sum of:

(A)(i) QBE formula earnings and QBE grants earned by the state charter school based on the school's enrollment, school profile, and student characteristics. For purposes of this subparagraph, the term "QBE formula earnings" means funds earned for the Quality Basic Education Formula pursuant to Code Section 20-2-161, including the portion of such funds that are calculated in accordance with Code Section 20-2-164. QBE formula earnings shall include the salary portion of direct instructional costs, the adjustment for training and experience, the nonsalary portion of direct instructional costs, and earnings for psychologists and school social workers, school administration, facility maintenance and operation, media centers, additional days of instruction in accordance with Code Section 20-2-184.1, and staff development, as determined by the department.

(ii) A proportional share of earned state categorical grants, non-QBE state grants, transportation grants, school nutrition grants, and all other state grants, except state equalization grants, as determined by the department;

(B) The average amount of the total revenues less federal revenues less state revenues other than equalization grants per full-time equivalent for the lowest five school systems ranked by assessed valuation per weighted full-time equivalent count, as determined by the department; and

(C) The state-wide average total capital revenue per full-time equivalent, as determined by the department.

(2) In the event that a state charter school offers virtual instruction:

(A) The amount of funds received pursuant to subparagraph (B) of paragraph (1) of this subsection shall be equal to two-thirds of such calculated amount; provided, however, that this two-thirds amount may be increased by any amount up to the originally calculated amount in the discretion of the commission if relevant factors warrant such increase; and

(B) The commission may reduce the amount of funds received pursuant to subparagraph (C) of paragraph (1) of this subsection in

proportion to the amount of virtual instruction provided and based on factors that affect the cost of providing instruction.

(3) For purposes of this subsection, the terms:

(A) "Assessed valuation" is defined as 40 percent of the equalized adjusted property tax digest reduced by the amount calculated pursuant to subsection (g) of Code Section 20-2-164.

(B) "Assessed valuation per weighted full-time equivalent count" is defined as the assessed valuation for the most recent year available divided by the weighted full-time equivalent count for the year of the digest.

(b) The department may withhold up to 3 percent of the amount determined pursuant to subsection (a) of this Code section for each state charter school for use in administering the duties required pursuant to Code Section 20-2-2083; provided, however, that any amount withheld pursuant to this subsection shall be spent solely on expenses incurred by the commission in performing the duties required by this article.

(c) No deduction shall be made to any state funding which a local school system is otherwise authorized to receive pursuant to this chapter as a direct result or consequence of the enrollment in a state charter school of a specific student or students who reside in the geographical area of the local school system.

(d) For purposes of funding students enrolled in a state charter school in the first year of such school's operation or for the first year that an existing state charter school offers a new grade level and prior to the initial student count, the commission shall calculate and the department shall distribute the funding for the state charter school on the basis of its projected enrollment according to an enrollment counting procedure or projection method stipulated in the terms of the charter. No later than July 1 of each year, the commission shall notify the department and the Office of Planning and Budget of the funding estimates calculated pursuant to this subsection for any new state charter schools and for any new grade levels offered by existing state charter schools. After the initial student count during the first year of such state charter school's operation or newly offered grade level and in all years of operation thereafter, each state charter school's student enrollment shall be based on the actual enrollment in the current school year according to the most recent student count. Nothing in this Code section shall be construed to require the department to conduct more than two student counts per year.

(e) Funding for state charter schools pursuant to this Code section shall be subject to appropriations by the General Assembly and such

schools shall be treated consistently with all other public schools in this state, pursuant to the respective statutory funding formulas and grants. (Code 1981, § 20-2-2089, enacted by Ga. L. 2012, p. 1298, § 1/HB 797.)

20-2-2090. Collaborative efforts on matters related to authorization of state charter schools; administration.

The commission shall work in collaboration with the department on all matters related to authorizing state charter schools and shall be assigned to the department for administrative purposes only, as prescribed in Code Section 50-4-3. For administrative purposes, including data reporting, student enrollment counting procedures, student achievement reporting, funding allocations, and related purposes as defined by the State Board of Education, each state charter school shall, consistent with department rules and regulations, be treated as a single local education agency. (Code 1981, § 20-2-2090, enacted by Ga. L. 2012, p. 1298, § 1/HB 797.)

20-2-2091. Rules and regulations for implementation of article.

The commission and the State Board of Education, as appropriate, shall adopt rules and regulations necessary to facilitate the implementation of this article. Except as otherwise provided in this article, any rules and regulations adopted by the State Board of Education pursuant to this article, to the extent practicable, shall be established in the same manner and subject to the same requirements as for state chartered special schools under Article 31 of this chapter. (Code 1981, § 20-2-2091, enacted by Ga. L. 2012, p. 1298, § 1/HB 797.)

ARTICLE 32

HIGH SCHOOL ATHLETICS OVERVIEW COMMITTEE

Effective date. — This article became effective July 1, 2014.

Editor's notes. — The former article consisted of Code Sections 20-2-2100 through 20-2-2105, relating to the High School Athletics Overview Committee,

was based on Code 1981, §§ 20-2-2100 through 20-2-2105, enacted by Ga. L. 2006, p. 878, § 1/HB 1316, and was repealed by Ga. L. 2006, p. 878, § 1/HB 1316, effective December 31, 2010.

20-2-2100. Creation of oversight committee to review operations of high school athletic associations.

(a) There is created as a joint committee of the General Assembly the High School Athletics Overview Committee to be composed of five members of the House of Representatives appointed by the Speaker of the House, one of whom shall be a member of the minority party; five

members of the Senate appointed by the Lieutenant Governor, one of whom shall be a member of the minority party; the chairperson of the House Committee on Education or his or her designee; and the chairperson of the Senate Education and Youth Committee or his or her designee. The members of the committee shall serve two-year terms concurrent with their terms as members of the General Assembly. The Speaker of the House of Representatives and the Lieutenant Governor shall each designate a cochairperson from among the appointees of their respective houses. The cochairpersons shall serve terms of two years concurrent with their terms as members of the General Assembly. Vacancies in an appointed member's position or in the offices of cochairperson of the committee shall be filled for the unexpired term in the same manner as the original appointment. The committee shall periodically inquire into and review the operations of high school athletic associations, as defined in subsection (c) of this Code section.

(b) No high school which receives funding under Article 6 of this chapter shall participate in, sponsor, or provide coaching staff for interscholastic sports events which are conducted under the authority of, conducted under the rules of, or scheduled by any high school athletics association unless such association complies with the provisions of this article.

(c) As used in this Code section, the term "committee" means the High School Athletics Overview Committee, and the term "high school athletic association" means any association of schools or any other similar organization which acts as an organizing, sanctioning, scheduling, or rule-making body for interscholastic athletic events in which public high schools in this state participate. (Code 1981, § 20-2-2101, enacted by Ga. L. 2014, p. 368, § 1A/SB 288.)

20-2-2101. Powers and duties.

The Department of Education, the Attorney General, and all other agencies of state government, upon request by the committee, shall assist the committee in the discharge of its duties set forth in this article. The committee may employ staff and may secure the services of consultants as appropriate and subject to available funding. Upon authorization by joint resolution of the General Assembly, the committee shall have the power while the General Assembly is in session or during the interim between sessions to request the attendance of witnesses and the production of documents in aid of its duties. In addition, when the General Assembly is not in session, the committee shall have the power to request the attendance of witnesses and the production of documents in aid of its duties, upon application of the cochairpersons of the committee, with the concurrence of the Speaker of the House and the Senate Committee on Assignments. (Code 1981, § 20-2-2101, enacted by Ga. L. 2014, p. 368, § 1A/SB 288.)

20-2-2102. Cooperation and reporting by high school athletic associations.

All high school athletic associations in this state shall cooperate with the committee, its authorized personnel, the Attorney General, the Department of Education, and other state agencies in order that the charges of the committee may be timely and efficiently discharged. The associations shall submit to the committee such reports and data as the committee shall reasonably require in order that the committee may adequately perform its functions. The Attorney General is authorized to bring appropriate legal actions to enforce any laws specifically or generally relating to the associations. The committee shall, on or before the first day of January of each year, and at such other times as it deems necessary, submit to the General Assembly a report of its findings and recommendations based upon the review of the high school athletic associations, as set forth in this article. (Code 1981, § 20-2-2102, enacted by Ga. L. 2014, p. 368, § 1A/SB 288.)

20-2-2103. Evaluation of performance of high school athletic associations.

In the discharge of its duties, the committee shall evaluate the performance of high school athletic associations consistent with the following criteria:

(1) Fairness and equity in establishing and implementing its standards; and

(2) The promotion of academic achievement and good sportsmanship. (Code 1981, § 20-2-2103, enacted by Ga. L. 2014, p. 368, § 1A/SB 288.)

20-2-2104. Expenditure of funds; compensation of members; funding.

(a) The committee is authorized to expend state funds available to the committee for the discharge of its duties. Said funds may be used for the purposes of compensating staff, paying for services of consultants, and paying all other necessary expenses incurred by the committee in performing its duties.

(b) The members of the committee shall receive the same compensation, per diem, expenses, and allowances for their service on the committee as is authorized by law for members of interim legislative study committees.

(c) The funds necessary for the purposes of the committee shall come from the funds appropriated to and available to the legislative branch

of government. (Code 1981, § 20-2-2104, enacted by Ga. L. 2014, p. 368, § 1A/SB 288.)

ARTICLE 33

SCHOLARSHIP PROGRAM FOR SPECIAL NEEDS STUDENTS

20-2-2114. Qualifications for scholarship; financial responsibility; state-wide assessments; exception; compliance.

(a) A student shall qualify for a scholarship under this article if:

(1) The student's parent currently resides within Georgia and has been a Georgia resident for at least one year;

(2) The student has one or more of the following disabilities:

(A) Autism;

(B) Deaf/blind;

(C) Deaf/hard of hearing;

(D) Emotional and behavioral disorder;

(E) Intellectual disability;

(F) Orthopedic impairment;

(G) Other health impairment;

(H) Specific learning disability;

(I) Speech-language impairment;

(J) Traumatic brain injury; or

(K) Visual impairment;

(3) The student has spent the prior school year in attendance at a Georgia public school and has had an Individualized Education Program written by the school in accordance with federal and state laws and regulations; provided, however, that the State Board of Education shall be authorized to require a local board of education to expedite the development of an Individualized Education Program and to waive the prior school year requirement contained in this paragraph, in its sole discretion, on a case-by-case basis for specific medical needs of the student upon the request of a parent or guardian in accordance with state board procedures. If an expedited Individualized Education Program is required by the state board pursuant to this paragraph, the state board may additionally require such expedited process to be completed prior to the beginning of the school year. The State Board of Education shall provide an annual report by

December 31 of each year through December 31, 2015, regarding the number of waivers approved pursuant to this paragraph to the General Assembly;

(4) The parent obtains acceptance for admission of the student to a participating school; and

(5) The parent submits an application for a scholarship to the department no later than the deadline established by the department; provided, however, that the department shall provide application deadline opportunities on September 15, December 15, and February 15 of each school year for a student to transfer.

(b) Upon acceptance of the scholarship, the parent assumes full financial responsibility for the education of the scholarship student, including transportation to and from the participating school.

(c) For a student who participates in the program whose parents request that the student take the state-wide assessments pursuant to Code Section 20-2-281, the resident school system shall make available to the student locations and times to take all state-wide assessments. Test scores of private school students participating in the state-wide assessments shall not be applied to the system averages of the resident school system for data reported for federal and state requirements.

(d) Students enrolled in a school operated by the Department of Juvenile Justice are not eligible for the scholarship.

(e) The scholarship shall remain in force until the student returns to his or her assigned school in the resident public school system, graduates from high school, or reaches the age of 21, whichever occurs first. However, at any time, the student's parent may remove the student from the participating school and place the student in another participating school or public school as provided for in Code Section 20-2-2113.

(f) Acceptance of a scholarship shall have the same effect as a parental refusal to consent to services pursuant to the Individuals with Disabilities Education Act, 20 U.S.C.A. Section 1400, et seq.

(g) The creation of the program or the granting of a scholarship pursuant to this article shall not be construed to imply that a public school did not provide a free and appropriate public education for a student or constitute a waiver or admission by the state.

(h) Any scholarship directed to a participating school is so directed wholly as a result of the genuine and independent private choice of the parent.

(i) The parent of each student participating in the scholarship program shall comply fully with the participating school's rules and policies.

(j) Any parent who fails to comply with the provisions of this article and department regulations relating to the scholarship shall forfeit the scholarship. (Code 1981, § 20-2-2114, enacted by Ga. L. 2007, p. 197, § 1/SB 10; Ga. L. 2013, p. 753, § 1/HB 70; Ga. L. 2014, p. 866, § 20/SB 340.)

The 2013 amendment, effective July 1, 2013, rewrote paragraph (a)(3), and added the proviso at the end of paragraph (a)(5).

The 2014 amendment, effective April

29, 2014, part of an Act to revise, modernize, and correct the Code, deleted "(IEP)" following "Individualized Education Program" in the first sentence of paragraph (a)(3).

20-2-2116. Amount of scholarship; method of payments.

(a) The maximum scholarship granted a scholarship student pursuant to this article shall be an amount equivalent to the costs of the educational program that would have been provided for the student in the resident school system as calculated under Code Section 20-2-161. This shall not include any federal funds.

(b) The amount of the scholarship shall be the lesser of the amount calculated in subsection (a) of this Code section or the amount of the participating school's tuition and fees, if applicable. The amount of any assessment fee required by the participating school may be paid from the total amount of the scholarship.

(c) Scholarship students shall be counted in the enrollment of their resident school system; provided, however, that this count shall only be for purposes of determining the amount of the scholarship and the scholarship students shall not be included as enrolled for purposes of state or federal accountability requirements, including, but not limited to, the federal Elementary and Secondary Education Act, as amended by the No Child Left Behind Act of 2001 (P.L. 107-110). The funds needed to provide a scholarship shall be subtracted from the allotment payable to the resident school system.

(d) Each local school system shall submit quarterly reports to the department on dates established by the department stating the number of scholarship students in the resident school system. Following each notification, the department shall transfer from the state allotment to each school system the amount calculated under subsection (b) of this Code section to a separate account for the scholarship program for quarterly disbursement to the parents of scholarship students. When a student enters the program, the department must receive all documentation required for the student's participation, including the participating school's and student's fee schedules, at least 30 days before the first quarterly scholarship payment is made for the student. The department may not make any retroactive payments.

(e) Upon proper documentation received by the department, the department shall make quarterly scholarship payments to the parents of scholarship students on or before October 15, December 15, February 15, and May 15 for quarterly periods corresponding, respectively, to August 1 through September 30, October 1 through November 30, December 1 through the last day of February, and March 1 through May 31 during each academic year in which the scholarship is in force. As nearly as practical, such quarterly payments shall be equal; provided, however, that this shall not prevent payments from being adjusted due to budgetary midterm adjustments made pursuant to Code Section 20-2-162. The state auditor shall cite as an audit exception any failure by the department to meet any payment deadlines and shall include such audit exceptions on the website established pursuant to Code Section 50-6-32. The initial payment shall be made upon evidence of admission to the participating school, and subsequent payments shall be made on evidence of continued enrollment and attendance at the participating school.

(f) Payment to the parents must be made by individual warrant made payable to the student's parent and mailed by the department to the participating school of the parent's choice, and the parent shall restrictively endorse the warrant to the participating school for deposit into the account of such school.

(g) A person, on behalf of a participating school, may not accept a power of attorney from a parent to sign a warrant, and a parent of a scholarship student may not give a power of attorney designating a person, on behalf of a participating school, as the parent's attorney in fact.

(h) If the participating school requires partial payment of tuition prior to the start of the academic year to reserve space for students admitted to the school, that partial payment may be paid by the department prior to the first quarterly payment of the year in which the scholarship is awarded, up to a maximum of \$1,000.00, and deducted from subsequent scholarship payments. If a student decides not to attend the participating school, the partial reservation payment must be returned to the department by such school. Only one reservation payment per student may be made per year. (Code 1981, § 20-2-2116, enacted by Ga. L. 2007, p. 197, § 1/SB 10; Ga. L. 2013, p. 753, § 2/HB 70.)

The 2013 amendment, effective July 1, 2013, substituted "subsection (b) of this Code section" for "Code Section 20-2-161" in the second sentence of subsection (d); and, in subsection (e), substituted the present provisions of the first sentence for

the former provisions, which read: "Upon proper documentation received by the department, the department shall make quarterly scholarship payments to the parents of scholarship students on dates established by the department during

each academic year in which the scholarship is in force.”, and added the second and third sentences.

CHAPTER 2A

STUDENT SCHOLARSHIP ORGANIZATIONS

Sec.	Sec.
20-2A-1. Definitions.	20-2A-7. Penalties for failure to comply with requirements of chapter; violations.
20-2A-2. Requirements for student scholarship organizations.	
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20-2A-1. Definitions.

As used in this chapter, the term:

(1) “Eligible student” means a student who is a Georgia resident who, immediately prior to receiving a scholarship or tuition grant under Code Section 20-2A-2 and enrolling in a qualified school or program, was enrolled in and attended for at least six weeks a Georgia secondary or primary public school or who is eligible to enroll in a qualified first grade, kindergarten program, or pre-kindergarten program; provided, however, that if a student is deemed an eligible student pursuant to this paragraph, he or she shall continue to qualify as such until he or she graduates, reaches the age of 20, or returns to a public school, whichever occurs first; and provided, further, that the enrollment and six-week public school attendance requirements shall be waived in the case of a student who, based on the school attendance zone of his or her primary residence, is or would be assigned to a public school that the Office of Student Achievement determines to be a low-performing school, who is the subject of officially documented cases of school based physical violence or student related verbal abuse threatening physical harm, or who was enrolled in a home study program meeting the requirements of subsection (c) of Code Section 20-2-690 for at least one year immediately prior to receiving a scholarship or tuition grant under Code Section 20-2A-2.

(2) “Qualified school or program” means a nonpublic pre-kindergarten program, primary school, or secondary school that:

(A) Is accredited or in the process of becoming accredited by one or more entities listed in subparagraph (A) of paragraph (6) of Code Section 20-3-519; and

(B) Is located in this state, adheres to the provisions of the federal Civil Rights Act of 1964, and satisfies the requirements prescribed by law for private schools in this state.

(3) “Student scholarship organization” means a charitable organization in this state that:

(A) Is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code and obligates for scholarships or tuition grants at least 90 percent of its annual revenue received from donations for scholarships or tuition grants to allow students to attend any qualified school of their parents’ choice; and

(B) Provides educational scholarships or tuition grants to eligible students without limiting availability to only students of one school. (Code 1981, § 20-2A-1, enacted by Ga. L. 2008, p. 1108, § 1/HB 1133; Ga. L. 2011, p. 529, § 1/HB 325; Ga. L. 2013, p. 1061, § 33A/HB 283.)

The 2013 amendment, effective May 7, 2013, substituted the present provisions of paragraph (1) for the former provisions, which read: “‘Eligible student’ means a student who is a Georgia resident enrolled in a Georgia secondary or primary public school or eligible to enroll in a qualified first grade, kindergarten program, or pre-kindergarten program; provided, however, that if a student is deemed an eligible student pursuant to

this paragraph, he or she shall continue to qualify as such until he or she graduates, reaches the age of 20, or returns to a public school, whichever occurs first.” See editor’s note for applicability.

Editor’s notes. — Ga. L. 2013, p. 1061, § 33E/HB 283, not codified by the General Assembly, provides, in part, that this Code section shall apply to all taxable years beginning on or after January 1, 2013.

20-2A-2. Requirements for student scholarship organizations.

Each student scholarship organization:

(1) With respect to the first \$1.5 million of its annual revenue received from donations for scholarships or tuition grants, must obligate at least 90 percent of such revenue for scholarships or tuition grants; with respect to its annual revenue received from donations for scholarships or tuition grants in excess of \$1.5 million and up to and including \$10 million, must obligate at least 93 percent of such revenue for scholarships and tuition grants; with respect to its annual revenue received from donations for scholarships or tuition grants in excess of \$10 million and up to and including \$20 million, must obligate at least 94 percent of such revenue for scholarships and tuition grants; and, with respect to its annual revenue received from donations for scholarships or tuition grants in excess of \$20 million, must obligate at least 95 percent of such revenue for scholarships and tuition grants. On or before the end of the calendar year following the calendar year in which a student scholarship organization receives

revenues from donations and obligates them for the awarding of scholarships or tuition grants, the student scholarship organization shall designate the obligated revenues for specific student recipients. Once the student scholarship organization designates obligated revenues for specific student recipients, in the case of multiyear scholarships or tuition grants, the student scholarship organization may distribute the entire obligated and designated revenues to a qualified school or program to be held in accordance with Department of Revenue rules for distribution to the specified recipients during the years in which the recipients are projected in writing by the private school to be enrolled at the qualified school or program. In making a multiyear distribution to a qualified school or program, the student scholarship organization shall require that if the designated student becomes ineligible or for any other reason the qualified school or program elects not to continue disbursement of the multiyear scholarship or tuition grant to the designated student for all the projected years, then the qualified school or program shall immediately return the remaining funds to the student scholarship organization. Once the student scholarship organization designates obligated revenues for specific student recipients, in the case of multiyear scholarships or tuition grants for which the student scholarship organization distributes the obligated and designated revenues to a qualified school or program annually rather than the entire amount, if the designated student becomes ineligible or for any other reason the student scholarship organization elects not to continue disbursement for all years, then the student scholarship organization shall designate any remaining previously obligated revenues for a new specific student recipient on or before the end of the following calendar year. The maximum scholarship amount given by the student scholarship organization in any given year shall not exceed the average state and local expenditures per student in fall enrollment in public elementary and secondary education for this state. The Department of Education shall determine and publish such amount annually, no later than January 1;

(1.1) In awarding scholarships or tuition grants, shall consider financial needs of students based on all sources, including the federal adjusted gross income from the federal income tax return most recently filed by the parents or guardians of such students, as adjusted for family size. If the parents or guardians of a student have not filed a federal income tax return in either of the two calendar years immediately preceding the year of application, the student scholarship organization shall consider the financial need of the student based on proof of employment income of the parents or guardians from the 30 consecutive days closest to when the applicant submitted the scholarship application and on any other sources of

income, including, but not limited to, unemployment benefits, social security benefits, and child support benefits;

(2) Must maintain separate accounts for scholarship funds and operating funds. Until obligated revenues are designated for specific student recipients, the student scholarship organization shall hold the obligated revenues in a bank or investment account owned by the student scholarship organization and over which it has complete control;

(3) Must have an independent board of directors with at least three members;

(4) May transfer funds to another student scholarship organization;

(5) Must conduct an audit of its accounts by an independent certified public accountant within 120 days after the completion of the student scholarship organization's fiscal year verifying that it has complied with all requirements of this Code section, including but not limited to financial requirements. Each student scholarship organization shall provide a copy of such audit to the Department of Revenue in accordance with Code Section 20-2A-3. Notwithstanding Code Sections 20-2A-7, 48-2-15, 48-7-60, and 48-7-61, if the copy of the audit submitted fails to verify that the student scholarship organization obligated its annual revenue received from donations for scholarships or tuition grants as required under paragraph (1) of this Code section; that obligated revenues were designated for specific student recipients within the time frame required by paragraph (1) of this Code section; and that all obligated and designated revenue distributed to a qualified school or program for the funding of multiyear scholarships or tuition grants complied with all applicable Department of Revenue rules, then the Department of Revenue shall post on its website the details of such failure to verify. Until any such noncompliant student scholarship organization submits an amended audit, which, to the satisfaction of the Department of Revenue, contains the verifications required under this Code section, the Department of Revenue shall not preapprove any contributions to the noncompliant student scholarship organization; and

(6) Must annually submit notice to the Department of Education in accordance with department guidelines of its participation as a student scholarship organization under this chapter. (Code 1981, § 20-2A-2, enacted by Ga. L. 2008, p. 1108, § 1/HB 1133; Ga. L. 2011, p. 529, § 1/HB 325; Ga. L. 2013, p. 1061, § 33B/HB 283.)

The 2013 amendment, effective May 7, 2013, substituted the present provisions of paragraph (1) for the former provisions, which read: "Must obligate for scholarships or tuition grants at least 90 percent of its annual revenue received

from donations for scholarships or tuition grants; however, up to 25 percent of this amount may be carried forward for the next fiscal year. The maximum scholarship amount given by the student scholarship organization in any given year shall not exceed the average state and local expenditures per student in fall enrollment in public elementary and secondary education for this state. The Department of Education shall determine and publish such amount annually, no later than January 1;” added paragraph (1.1); added the second sentence in paragraph (2); and substituted the present provisions of paragraph (5) for the former provisions, which read: “Must conduct an audit of its

accounts by an independent certified public accountant within 120 days after the completion of the student scholarship organization’s fiscal year verifying that it obligated for scholarships or tuition grants at least 90 percent of its annual revenue received from donations for scholarships or tuition grants and provide such audit to the Department of Revenue in accordance with Code Section 20-2A-3; and”. See editor’s note for applicability.

Editor’s notes. — Ga. L. 2013, p. 1061, § 33E/HB 283, not codified by the General Assembly, provides, in part, that this Code section shall apply to all taxable years beginning on or after January 1, 2013.

20-2A-3. Taxation reporting requirements for student scholarship organizations.

(a) Each student scholarship organization must report to the Department of Revenue, on a form provided by the Department of Revenue, by January 12 of each tax year the following:

(1) The total number and dollar value of individual contributions and tax credits approved. Individual contributions shall include contributions made by those filing income tax returns as a single individual or head of household and those filing joint returns;

(2) The total number and dollar value of corporate contributions and tax credits approved;

(3) The total number and dollar value of scholarships awarded to eligible students;

(4) The total number of families of scholarship recipients who fall within each quartile of Georgia adjusted gross income as defined and reported annually by the Department of Revenue and the average number of dependents of recipients for each quartile; and

(5) A list of donors, including the dollar value of each donation and the dollar value of each approved tax credit.

Such report shall also include a copy of the audit conducted pursuant to paragraph (5) of Code Section 20-2A-2. The Department of Revenue shall post on its website the information received from each student scholarship organization pursuant to paragraphs (1) through (4) of this subsection.

(b) Except for the information reported pursuant to paragraphs (1) through (4) of subsection (a) of this Code section, all information or reports provided by student scholarship organizations to the Depart-

ment of Revenue shall be confidential taxpayer information, governed by Code Sections 48-2-15, 48-7-60, and 48-7-61, whether it relates to the donor or the student scholarship organization. (Code 1981, § 20-2A-3, enacted by Ga. L. 2008, p. 1108, § 1/HB 1133; Ga. L. 2011, p. 529, § 1/HB 325; Ga. L. 2013, p. 1061, § 33C/HB 283.)

The 2013 amendment, effective May 7, 2013, in subsection (a), deleted “and” at the end of paragraph (a)(3); added paragraph (a)(4); redesignated former paragraph (a)(4) as present paragraph (a)(5); and substituted “received from each student” for “received by each student” in the second sentence of the ending undesignated paragraph; in subsection (b), deleted the former first sentence, which read: “The Department of Revenue shall not require any other information

from student scholarship organizations, except as expressly authorized in this chapter.”, and substituted “Except for the information reported pursuant to paragraphs (1) through (4) of subsection (a) of this Code section, all” for “All”. See editor’s note for applicability.

Editor’s notes. — Ga. L. 2013, p. 1061, § 33E/HB 283, not codified by the General Assembly, provides, in part, that this Code section shall apply to all taxable years beginning on or after January 1, 2013.

20-2A-7. Penalties for failure to comply with requirements of chapter; violations.

(a)(1) Any student scholarship organization that fails to comply with any requirements under this chapter shall be given written notice by the Department of Revenue of such failure to comply by certified mail and shall have 90 days from the receipt of such notice to correct all deficiencies.

(2) Upon failure to correct all deficiencies within 90 days, such student scholarship organization shall:

(A) Be immediately removed from the Department of Education list provided for in Code Section 20-2A-6;

(B) Be required to cease all operations as a student scholarship organization and transfer all scholarship account funds to a properly operating student scholarship organization within 30 calendar days of receipt of notice from the Department of Revenue of removal from the approved list; and

(C) Have all applications for preapproval of tax credits under Code Section 48-7-29.16 rejected by the Department of Revenue on or after the date the Department of Education removes the student scholarship organization from its list provided for in Code Section 20-2A-6.

(b) Any student scholarship organization that:

(1) Awards or restricts the award of a scholarship to a specific eligible student at the request of a donor; or

(2) Encourages or facilitates taxpayers to engage in actions that are prohibited by law

shall be subject to paragraph (2) of subsection (a) of this Code section.

(c) Any officer or director of a student scholarship organization found to have actively participated in a student scholarship organization’s intentional violation of its obligations under this chapter shall be guilty of a misdemeanor. (Code 1981, § 20-2A-7, enacted by Ga. L. 2011, p. 529, § 1/HB 325.)

CHAPTER 3

POSTSECONDARY EDUCATION

Article 2

Board of Regents and University System

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ARTICLE 2

BOARD OF REGENTS AND UNIVERSITY SYSTEM

- PART 1A
- DIVISION OF ARCHIVES AND HISTORY
- Editor's notes. — Ga. L. 2013, p. 594, § 1-1/HB 287, effective July 1, 2013, re-designated former Article 3 of Chapter 13 of Title 45 as present Part 1A of Article 2 of Chapter 3 of Title 20.

20-3-41. Division of Archives and History transferred to University System.

(a) There is transferred to the University System of Georgia the Division of Archives and History formerly of the office of the Secretary of State which on and after July 1, 2013, shall be the Division of Archives and History of the University System of Georgia and may also be referred to as the Georgia Archives. The Georgia Archives so transferred shall be under the management and control of the board of regents and shall be the successor to and a continuation of the former Division of Archives and History of the Office of the Secretary of State. All persons employed in the former division as of June 30, 2013, shall be transferred to the new division effective July 1, 2013.

(b) The change of the name and governance of the former Division of Archives and History of the Office of the Secretary of State and its continuation, as provided in this Code section, shall in no way affect any existing obligations, liabilities, or rights of the Georgia Archives, as such existed on June 30, 2013. All such obligations, liabilities, and rights are transferred to, vested in, and assumed by the board. All existing contracts and agreements between any party and the Georgia Archives shall not be affected by this Code section but shall continue in full force and effect, without interruption, as contracts or agreements of the board.

(c) All right, title, interest, and ownership of all assets, including all real estate, of the former Division of Archives and History of the Office of the Secretary of State are transferred to and vested in the board. (Ga. L. 1918, p. 137, § 1; Ga. L. 1919, p. 234, § 1; Ga. L. 1929, p. 1516; Code 1933, § 40-801; Code 1981, § 45-13-40; Ga. L. 2002, p. 532, § 9; Code 1981, § 20-3-41, as redesignated by Ga. L. 2013, p. 594, § 1-1/HB 287.)

The 2013 amendment, effective July 1, 2013, redesignated former Code Section 45-13-40 as present Code Section 20-3-41; designated the existing Code section as subsection (a); rewrote subsection (a); and added subsections (b) and (c).

20-3-41.1. Objectives and purposes generally.

The objects and purposes of the Georgia Archives shall be to:

(1) Ensure the retention and preservation of the records of any state or local agency with historical and research value by providing for the application of modern and efficient methods to the creation, utilization, maintenance, retention, preservation, and disposal of records;

(2) Provide an archival and records' depository in which to assemble and maintain the official archives and other inactive records of the state not in current and common use;

(3) Collect from the files of old newspapers, court records, church records, private collections, and other sources data of all kinds bearing upon the history of the state;

(4) Secure from private individuals, either by loan or gift, rare volumes, manuscripts, documents, and pamphlets for the use of this division;

(5) Obtain, either by loan or gift, historical trophies, souvenirs, and relics;

(6) Classify, edit, annotate, and publish in print or electronically from time to time such records as may be deemed expedient and proper, including messages of Governors, executive orders, state

papers, and military rosters of the Revolutionary, Indian, Mexican, Civil, and European wars;

(7) Diffuse knowledge in regard to the state's history;

(8) Reserved;

(9) Encourage the proper marking of battlefields, houses, and other places celebrated in the history of the state;

(10) Encourage the study of Georgia history in the public schools;

(11) Assist in the observance of patriotic occasions;

(12) Plan and coordinate celebrations and observations of events and anniversaries having historic or special significance to this state;

(13) Stimulate historical research, especially in the prosecution of local histories;

(14) Foster sentiment looking to the better protection, classification, and arrangement of records in the various courthouses of the state;

(15) Collect biographical information in regard to all public officials and to keep same on file, in a classified arrangement, for convenient reference by investigators; and

(16) Encourage the study of historical documents including but not limited to those which reflect our National Motto, the Declaration of Independence, the Ten Commandments, the Constitution of the United States, and such other nationally recognized documents which contributed to the history of the State of Georgia. (Ga. L. 1918, p. 137, § 1; Ga. L. 1931, p. 7, § 89-B; Code 1933, § 40-802; Ga. L. 1969, p. 989, § 1; Ga. L. 1980, p. 485, § 1; Code 1981, § 45-13-41; Ga. L. 1990, p. 8, § 45; Ga. L. 2002, p. 532, § 10; Ga. L. 2010, p. 838, § 10/SB 388; Code 1981, § 20-3-41.1, as redesignated by Ga. L. 2013, p. 594, § 1-1/HB 287.)

The 2013 amendment, effective July 1, 2013, redesignated former Code Section 45-13-41 as present Code Section 20-3-41.1; and substituted "Reserved" for the former provisions of paragraph (8), which read: "Prepare biennially an official register giving the latest information of an

official character in regard to the state, including a full list of state officers, legislators, judges, district attorneys, members of Congress, county officials, etc., together with other pertinent items of information."

20-3-41.2. Surrender of materials to division for preservation; preparation of certified copies; ownership, operation, and management of electronic archival records; exemption for certain records under certain conditions; “constitutional officer” defined.

(a) Any state, county, or other official is authorized, in his or her discretion, to turn over for permanent preservation in the Division of Archives and History any official books, records, documents, original papers, manuscript files, newspaper files, portraits, and printed volumes not in current use in his or her office. Any record created or received by a state agency, constitutional officer, or Speaker of the House of Representatives in the performance of a public duty or paid for by public funds and certified by the director of the Division of Archives and History as necessary to document the history, organization, functions, policies, decisions, and procedures of the agency or office shall be placed for permanent preservation in the Division of Archives and History when no longer in current use by the agency or officer. The board shall provide for the preservation of said materials; and, when so surrendered, copies thereof shall be made and certified by the director upon the application of any person interested, and such certification shall have the same force and effect as if made by the officers originally in custody of them and for which the same fees shall be charged.

(b) The Division of Archives and History shall own and operate any equipment necessary to manage and retain control of electronic archival records in its custody but may, at its discretion, contract with third-party entities to provide any or all services related to managing archival records on equipment owned by the contractor, by other third parties, or by the Division of Archives and History.

(c) Personal and official records and papers of the Lieutenant Governor and the Speaker of the House of Representatives shall be exempt from the provisions of subsection (a) of this Code section when such records and papers are deposited in a repository that meets the minimum archival and public access standards promulgated by the Division of Archives and History.

(d) As used in this Code section, the term “constitutional officer” means any officer enumerated in Article V, Section I, Paragraph I; Article V, Section I, Paragraph III; or Article V, Section III, Paragraph I of the Constitution. (Ga. L. 1918, p. 137, § 6; Ga. L. 1931, p. 7, § 89-B; Code 1933, § 40-805; Code 1981, § 45-13-46; Ga. L. 2002, p. 532, § 15; Ga. L. 2004, p. 591, § 2; Ga. L. 2007, p. 83, § 2/SB 210; Code 1981, § 20-3-41.2, as redesignated by Ga. L. 2013, p. 594, § 1-1/HB 287.)

The 2013 amendment, effective July 45-13-46 as present Code Section 1, 2013, redesignated former Code Section 20-3-41.2; in subsection (a), in the third

sentence, substituted “The board” for “The Secretary of State”, and substituted “and such certification” for “which certification”; and deleted “of the State of Georgia” following “Constitution” at the end of subsection (d).

20-3-41.3. Study of historical documents; public displays of the Foundations of American Law and Government.

(a) The General Assembly finds and determines:

(1) One of the purposes of the Division of Archives and History is to encourage the study of historical documents;

(2) There is a need to educate and inform the public about the history and background of American law;

(3) The public buildings of this state are an ideal forum in which to display educational and informational material about the history and background of American law; and

(4) A basic knowledge of American constitutional history is important to the formation of civic virtue in our society.

(b) The state and each municipality and political subdivision of this state shall be authorized to post the Foundations of American Law and Government display, as described in subsection (c) of this Code section, in a visible, public location in the public facilities of the state and such municipality or political subdivision.

(c) The Foundations of American Law and Government display shall include:

(1) The Mayflower Compact, 1620;

(2) The Ten Commandments as extracted from Exodus Chapter 20;

(3) The Declaration of Independence;

(4) Magna Carta;

(5) “The Star-Spangled Banner” by Francis Scott Key;

(6) The national motto;

(7) The Preamble to the Georgia Constitution;

(8) The Bill of Rights of the United States Constitution; and

(9) The description on the image of Lady Justice.

(d) Public displays of the Foundations of American Law and Government shall contain the documents set forth in paragraphs (1) through (9) of subsection (c) of this Code section together with a context for acknowledging formative, historically significant documents in America’s heritage as follows:

FOUNDATIONS OF AMERICAN LAW AND GOVERNMENT DISPLAY

The Foundations of American Law and Government display contains documents that played a significant role in the foundation of our system of law and government. The display contains (1) the Mayflower Compact; (2) the Ten Commandments; (3) the Declaration of Independence; (4) Magna Carta; (5) “The Star-Spangled Banner”; (6) the national motto of the United States of America; (7) the Preamble to the Georgia Constitution; (8) the Bill of Rights of the United States Constitution; and (9) a picture of Lady Justice.

The Mayflower Compact

The Mayflower Compact was penned by William Bradford on November 11, 1620, on the *Mayflower* before the Pilgrims made landfall at Plymouth, Massachusetts. The Compact was the first written constitution in the New World. William Bradford described the reasoning behind the Compact when he stated in the Compact, “This day, before we came to harbour, observing some not well affected to unity and concord, but gave some appearance of faction, it was thought good there should be an association and agreement, that we should combine together in one body, and to submit to such government and governors as we should by common consent agree to make and choose, and set our hands to this that follows, word for word.”

The Ten Commandments

The Ten Commandments have profoundly influenced the formation of Western legal thought and the formation of our country. That influence is clearly seen in the Declaration of Independence, which declared that “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness.” The Ten Commandments provide the moral background of the Declaration of Independence and the foundation of our legal tradition.

The Declaration of Independence

Perhaps the single most important document in American history, the Declaration of Independence was, as Abraham Lincoln stated, the “frame” into which the Framers placed the Constitution. The Declaration’s fundamental premise is that one’s right to “Life, Liberty and the pursuit of Happiness” is not a gift of government. Government is not a giver of rights, but a protector of God-given rights. Moreover, government is a creation of “the governed” and derives all its power from the consent of its people. As the Preamble to the United States Constitution states, “We the People” are the government.

Magna Carta

In 1215, King John of England consented to the demands of his barons and agreed for Magna Carta to be publicly read throughout the land. By this act he bound himself and “our heirs, in all things and all places for ever” to grant to the people of his kingdom the rights pronounced in Magna Carta. By signing Magna Carta, King John brought himself and England’s future rulers within the rule of law. The rule of law places a restraint on the exercise of arbitrary government power, and it places all people and civil government under law. The American patriots, therefore, waged war against England to preserve liberties originating in thirteenth century England. A distinction, however, is noted between Magna Carta and the American concept of liberty. While Magna Carta is a guarantee from a king that he will follow the law, the Constitution of the United States is the establishment of a government consisting of, and created for, “We the People.”

“The Star-Spangled Banner”

Guarding the entrance to Baltimore harbor via the Patapsco River during the War of 1812, Fort McHenry faced almost certain attack by British forces. Major George Armistead, the stronghold’s commander, was ready to defend the fort, but he wanted a flag that would identify his position, one whose size would be visible to the enemy from a distance. The flag that was made for the fort was 30 feet by 42 feet. Anxiously awaiting news of the battle’s outcome was a Washington, D.C., lawyer named Francis Scott Key. Key had visited the enemy’s fleet to secure the release of a Maryland doctor who had been abducted by the British after they left Washington. The lawyer had been successful in his mission, but he could not escort the doctor home until the attack ended. So he waited on a flag-of-truce sloop anchored eight miles downstream from Fort McHenry.

During the night, there had been only occasional sounds of the fort’s guns returning fire. At dawn, the British bombardment tapered off. Had the fort been captured? Placing a telescope to his eye, Key trained it on the fort’s flagpole. There he saw the large garrison flag catch the morning breeze. It had been raised as a gesture of defiance, replacing the wet storm flag that had flown through the night. Thrilled by the sight of the flag and the knowledge that the fort had not fallen, Key took a letter from his pocket and began to write some verses on the back of it. Later, after the British fleet had withdrawn, Key checked into a Baltimore hotel and completed his poem on the defense of Fort McHenry. He then sent it to a printer for duplication on handbills, and within a few days the poem was put to the music of an old English song. Both the new song and the flag became known as “The Star-Spangled Banner” and became a rallying cry for the American Patriots during the rest of the war.

The National Motto

The motto was derived from the line “And this be our motto, ‘In God is our trust’” in the U.S. national anthem, “The Star-Spangled Banner.” The phrase first appeared on U.S. coins in 1864 and became obligatory on all U.S. currency in 1955. In accordance with Public Law No. 851 passed at the Second Session of the 84th Congress of the United States, July 30, 1956, the national motto of the United States became “In God We Trust.”

The Preamble to the Georgia Constitution

The Preamble to the Georgia Constitution celebrates the ideas of free government, justice, peace, happiness, and liberty. Government is a creation of “the governed” and derives all its power from the consent of its people. The people, therefore, desiring a civilized society, created and ordained the Constitution of the State of Georgia.

The Bill of Rights of the United States Constitution

During the debates on the adoption of the U.S. Constitution, its opponents repeatedly charged that the Constitution as drafted would open the way to tyranny by the central government. Fresh in their minds was the memory of the British violation of civil rights before and during the Revolution. They demanded a “bill of rights” that would spell out the immunities of individual citizens. Several state conventions in their formal ratification of the Constitution asked for such amendments; others ratified the Constitution with the understanding that the amendments would be offered. The Bill of Rights is still a vital and powerful force in American government, shaping our laws and serving as a check on the exercise of government power.

Lady Justice

Lady Justice has become a symbol of the fair and equal administration of the law, without corruption, avarice, prejudice, or favor. The blindfold represents a system of justice that is blinded to all prejudices or favor. The scales represent justice that is administered fairly and the sword represents justice that is authoritative. Lady Justice is a symbol of the American system of justice and the ideals it embodies.

(e) All documents which are included in the Foundations of American Law and Government displays shall be posted on paper not less than 11 x 14 inches in dimension and shall be framed in identically styled frames. No one document shall be displayed more prominently than another.

(f) In no event shall any state funding be used for a display of the Foundations of American Law and Government. (Code 1981, § 45-13-51, enacted by Ga. L. 2006, p. 258, § 1/HB 941; Ga. L. 2012, p.

699, § 1/HB 766; Code 1981, § 20-3-41.3, as redesignated by Ga. L. 2013, p. 594, § 1-1/HB 287.)

The 2013 amendment, effective July 1, 2013, redesignated former Code Section 45-13-51 as present Code Section 20-3-41.3; and substituted the present provisions of paragraph (a)(1) for the former provisions, which read: “The General Assembly has directed the Division of Ar-

chives and History of the State of Georgia to encourage the study of historical documents”.

Law reviews. — For article on the 2012 amendment of this Code section, see 29 Ga. St. U.L. Rev. 214 (2012).

PART 1B

GEORGIA HISTORICAL RECORDS ADVISORY COUNCIL

Editor’s notes. — Ga. L. 2013, p. 594, § 1-2/HB 287, effective July 1, 2013, redesignated former Article 3A of Chapter 13 of Title 45 as present Part 1B of Article 2 of Chapter 3 of Title 20.

20-3-45. Georgia Historical Records Advisory Council created; purpose; members; expenses; coordinator; officers; meetings; administrative assignment; staff.

(a) As used in this part, the term:

(1) “Council” means the Georgia Historical Records Advisory Council created under this part.

(2) “Division” means the Division of Archives and History of the University System of Georgia.

(b) There is created and established the Georgia Historical Records Advisory Council with such powers and duties as are set forth in this part. The council shall be a continuation of and successor in interest to the former Georgia Historical Records Advisory Board.

(c) The purpose of the council shall be to advise the board and the Division of Archives and History; to serve as the state advisory body required by federal granting agencies; and to encourage cooperative efforts to improve the condition of Georgia’s historical records.

(d) The council shall consist of 12 members to be appointed by the Governor. A majority of the members shall have recognized experience in the administration of government records, historical records, or archives or in a field of research or activity that makes extensive use of historical records. The council shall be as broadly representative as possible of the public and private archival and research communities and organizations in the state.

(e) The Governor shall designate the initial terms of the members of the council as follows: four members shall be appointed for one year;

four members shall be appointed for two years; and four members shall be appointed for three years. Thereafter, all succeeding appointments shall be for three-year terms, except that each member shall serve until a successor is appointed. Members shall be eligible for reappointment.

(f) Whenever any vacancy in the membership of the council occurs, the Governor shall appoint a qualified person to fill the unexpired term.

(g) Members of the council shall serve without compensation, except that each member who is not a state officer or state employee shall receive the same expense allowance per day as that received by a member of the General Assembly for each day that such member of the council is in attendance at a meeting of such council, plus reimbursement for actual transportation costs while traveling by public carrier or the same mileage allowance as state government employees for use of a personal car in connection with such attendance.

(h) The director of the Division of Archives and History shall serve as Georgia historical records coordinator and assist the council in its activities.

(i) The council shall elect its chairperson and other officers and make such bylaws for its operation as may be necessary or appropriate.

(j) The council shall meet at least once each calendar year and special meetings may be called by the chairperson.

(k) The council shall be administratively assigned to the division.

(l) The council shall have no permanent staff but may hire temporary staff for specific activities if funds are available. (Code 1981, § 45-13-55, enacted by Ga. L. 1993, p. 1087, § 1; Ga. L. 2002, p. 532, § 18; Code 1981, § 20-3-45, as redesignated by Ga. L. 2013, p. 594, § 1-2/HB 287.)

The 2013 amendment, effective July 1, 2013, redesignated former Code Section 45-13-55 as present Code Section 20-3-45; substituted “Council” for “Board” and “council” for “board” throughout this Code section; substituted “part” for “article” in paragraph (a)(1) and in the first sentence

of subsection (b); added “of the University System of Georgia” at the end of paragraph (a)(2); added the second sentence in subsection (b); substituted “the board” for “the Secretary of State” in subsection (c); and, in subsections (i) and (j), substituted “chairperson” for “chair”.

20-3-45.1. Powers and duties of council.

The council shall have the following powers, duties, authorities, and functions to:

(1) Serve as the state advisory body required by federal granting authorities for state projects and to follow the regulations and guidelines promulgated by those granting authorities;

(2) Serve in an advisory capacity to the Division of Archives and History on issues concerning records;

(3) Identify endangered records of historical value and to recommend appropriate actions to protect them;

(4) Promote state-wide planning for historical records needs;

(5) Cooperate with and secure cooperation of every department, agency, or instrumentality in the state government or its political subdivisions in furtherance of the purposes of this part;

(6) Encourage high visibility historical records projects and studies with a state-wide impact, when studies and projects cross organizational and jurisdictional lines;

(7) Foster communication among all members of the historical records community and to encourage the development and adoption of state-wide goals and common practices to improve the condition of historical records;

(8) Appoint appropriate subcommittees or advisory committees;

(9) Recommend to the State Records Committee records retention schedules for records of the board in accordance with Article 5 of Chapter 18 of Title 50, the “Georgia Records Act”;

(10) Accept and use gifts, grants, and donations for the purpose of carrying out this article. Any funds, personal property, or services received as gifts, grants, or donations shall be kept separate and apart from any funds received by state appropriations; and such funds, property, or services so received by gifts, grants, or donations shall remain under the control of and subject to the direction of the council to carry out this article and as such shall not lapse at the end of each fiscal year;

(11) Make grants for the purpose of carrying out this part. Such grants shall be made and the funds shall be administered and expended subject to this part and in accordance with the rules and regulations of the funding source; and

(12) Do any and all things necessary and proper to enable it to perform wholly and adequately its duties and to exercise the authority granted to it. (Code 1981, § 45-13-56, enacted by Ga. L. 1993, p. 1087, § 1; Ga. L. 1994, p. 97, § 45; Ga. L. 2002, p. 532, § 19; Code 1981, § 20-3-45.1, as redesignated by Ga. L. 2013, p. 594, § 1-2/HB 287; Ga. L. 2014, p. 866, § 20/SB 340.)

The 2013 amendment, effective July 1, 2013, redesignated former Code Section 45-13-56 as present Code Section 20-3-45.1; substituted “part” for “article”

throughout this Code section; and substituted “council” for “board” in the introductory paragraph and in paragraph (10).

The 2014 amendment, effective April

29, 2014, part of an Act to revise, modernize, and correct the Code, substituted “this article” for “this part” at the end of the first sentence in paragraph (10).

PART 1C

SURPLUS STATE BOOKS

Editor’s notes. — Ga. L. 2013, p. 594, § 1-3/HB 287, effective July 1, 2013, redesignated former Article 5 of Chapter 13 of Title 45 as present Part 1C of Article 2 of Chapter 3 of Title 20.

20-3-47. Definitions.

As used in this part, the term:

(1) “Agency head” means the official or body authorized to establish policy on behalf of a state agency.

(1.1) “Division” means the Division of Archives and History of the University System of Georgia.

(2) “Nonprofit organization” means a bona fide nonprofit civic, educational, or charitable organization.

(3) “State agency” means any department, board, bureau, commission, committee, council, court, or other agency, by whatever name designated, of the executive, legislative, or judicial branch of the state government.

(4) “Surplus printed material” means books or other printed papers owned by the state or a state agency and in the possession of a state agency, which books and papers are no longer needed by that agency, which are declared surplus by such agency, and which need not be maintained by the agency as a part of its records. (Code 1933, § 40-601a, enacted by Ga. L. 1978, p. 911, § 1; Code 1981, § 45-13-80; Code 1981, § 20-3-47, as redesignated by Ga. L. 2013, p. 594, § 1-3/HB 287.)

The 2013 amendment, effective July 1, 2013, redesignated former Code Section 45-13-80 as present Code Section 20-3-47; substituted “part” for “article” in the introductory paragraph; and added paragraph (1.1).

Code Commission notes. — Pursuant to Code Section 28-9-5, in 2013, the redesignation of former Code Section 45-13-80 as Code Section 20-3-47, by Ga. L. 2013, p. 594, § 3-1/HB 287, effective July 1, 2013, was implemented despite the failure to strike the Code Section 45-13-80 designation.

20-3-47.1. Division to administer article.

The division shall be the administrator of this article. (Code 1933, § 40-602a, enacted by Ga. L. 1978, p. 911, § 1; Code 1981, § 45-13-81; Code 1981, § 20-3-47.1, as redesignated by Ga. L. 2013, p. 594, § 1-3/HB 287.)

The 2013 amendment, effective July 1, 2013, redesignated former Code Section 45-13-81 as present Code Section 20-3-47.1; and rewrote this Code section.

Code Commission notes. — Ga. L.

2013, p. 594, § 1-3/HB 287, purported to amend Code Section 45-13-80 20-3-47. Pursuant to Code Section 28-9-5, in 2013, Code Section 45-13-80 was redesignated as Code Section 20-3-47.

20-3-47.2. Declaration of printed material as surplus; preparation of inventory of material; transmission of inventory to division; filing of duplicate copy.

The head of each state agency is authorized to declare printed material in the possession of such state agency as surplus printed material. At the time printed material is declared to be surplus printed material, the agency head shall make or cause to be made a complete inventory of the surplus printed material. The inventory shall describe the surplus printed material in sufficient detail, if practicable, to allow the division to make the determination provided for in Code Section 20-3-47.3. The inventory shall contain a statement of the declaration of the printed material as surplus printed material; such declaration shall be signed by the agency head; and the date signed shall be indicated thereon. As a part thereof or as an attachment thereto, the inventory shall show the physical location of the surplus printed material. Upon its completion, the agency head shall transmit the original of the inventory to the division. A duplicate of the original copy shall be retained in the files of the state agency as a part of the records of such agency. (Code 1933, § 40-603a, enacted by Ga. L. 1978, p. 911, § 1; Code 1981, § 45-13-82; Code 1981, § 20-3-47.2, as redesignated by Ga. L. 2013, p. 594, § 1-3/HB 287.)

The 2013 amendment, effective July 1, 2013, redesignated former Code Section 45-13-82 as present Code Section 20-3-47.2; substituted “division” for “Sec-

retary of State” in the third and sixth sentences, and substituted “Code Section 20-3-47.3” for “Code Section 45-13-83” in the third sentence.

20-3-47.3. Determination of archival value of surplus printed material; release of material to division; notation of release on inventory; transmission of copy of inventory to originating state agency.

(a) When the division receives an inventory of surplus printed material as provided for by Code Section 45-13-82, the division shall make a determination of whether or not any of such surplus printed material has archival value within the meaning of Part 1A of this article. If the determination cannot be made on the basis of the description of the surplus printed material included in the inventory of such material, the director of the division or his or her designee shall visit the state agency which submitted the inventory for the purpose of examining the surplus printed material listed on such inventory; and

the determination required in this Code section may be made on the basis of such examination.

(b) If any surplus printed material is determined to have archival value as provided by subsection (a) of this Code section, the state agency which submitted the inventory shall release such printed material to the division. The division shall make or cause to be made a notation on the inventory for each item of surplus printed material so released; and a copy of such inventory, signed by the director of the division or his or her designee, containing the notations thereon shall be transmitted to the originating state agency. The state agency submitting the inventory shall be authorized to deliver surplus printed material having archival value to the division if the state agency has transportation available for such purpose. If the state agency does not have transportation available for such purpose, the division shall provide for the transportation of surplus printed material having archival value. (Code 1933, § 40-604a, enacted by Ga. L. 1978, p. 911, § 1; Code 1981, § 45-13-83; Ga. L. 2002, p. 532, § 20; Code 1981, § 20-3-47.3, as redesignated by Ga. L. 2013, p. 594, § 1-3/HB 287.)

The 2013 amendment, effective July 1, 2013, redesignated former Code Section 45-13-83 as present Code Section 20-3-47.3; and rewrote this Code section.

20-3-47.4. Authorization for donation to nonprofit organizations of surplus printed material not having archival value; rules and regulations.

(a) The return to the state agency of the copy of the inventory, signed by the director of the division or his or her designee, containing the notations thereon of the surplus printed material having archival value, as provided by Code Section 20-3-47.3, shall serve as the authorization for the state agency to donate to any nonprofit organization the surplus printed material which does not have archival value.

(b) Each state agency donating such surplus printed material to nonprofit organizations is authorized to adopt rules and regulations governing such donations, but such rules and regulations shall be consistent with this part and with rules and regulations adopted by the board pursuant to Code Section 20-3-31. (Code 1933, § 40-605a, enacted by Ga. L. 1978, p. 911, § 1; Code 1981, § 45-13-84; Code 1981, § 20-3-47.4, as redesignated by Ga. L. 2013, p. 594, § 1-3/HB 287.)

The 2013 amendment, effective July 1, 2013, redesignated former Code Section 45-13-84 as present Code Section 20-3-47.4; in subsection (a), substituted “director of the division or his or her” for “Secretary of State or his” and substituted “Code Section 20-3-47.3” for “Code Section 45-13-83”; in subsection (b), substituted “part” for “article” near the middle and substituted “board pursuant to Code Sec-

tion 20-3-31” for “Secretary of State pursuant to Code Section 45-13-81” at the end.

20-3-47.5. Applicability of part.

This part shall not be construed to apply to surplus books or printed material owned by any county or independent school system, any city, county, or regional library, or any political subdivision of this state. (Code 1933, § 40-606a, enacted by Ga. L. 1978, p. 911, § 1; Code 1981, § 45-13-85; Code 1981, § 20-3-47.5, as redesignated by Ga. L. 2013, p. 594, § 1-3/HB 287.)

The 2013 amendment, effective July 45-13-85 as present Code Section 1, 2013, redesignated former Code Section 20-3-47.5 and rewrote this Code section.

PART 2

UNIVERSITY SYSTEM

20-3-86. (Repealed effective June 30, 2016) Nonlapsing revenue of institutions in university system.

Revenue collected by any or all institutions in the university system from tuition, departmental sales or services, continuing education fees, technology fees, or indirect cost recoveries shall not lapse. The amount of revenue from tuition that shall not lapse under this Code section shall not exceed 3 percent of the tuition collected. This Code section shall stand repealed on June 30, 2016. (Code 1981, § 20-3-86, enacted by Ga. L. 2003, p. 313, § 5; Ga. L. 2006, p. 686, § 2/HB 1294; Ga. L. 2008, p. 884, § 2-1/HB 1183; Ga. L. 2010, p. 576, § 2-1/HB 1128; Ga. L. 2013, p. 747, § 2-1/HB 45.)

The 2013 amendment, effective May 6, 2013, substituted “2016” for “2013” at the end of this Code section.

ARTICLE 4

JUNIOR COLLEGES

20-3-133. Payments from regents to local operating authorities; local support from fees and taxes; audits.

There shall be paid to every local operating authority which shall have established a junior college under this article, upon which construction had commenced prior to January 1, 1964, and which is not operated as a unit of the university system under the board of regents an amount which shall be determined on the basis of a budget for each

fiscal year, developed pursuant to a formula agreed upon by the local operating authority, the director of the Senate Budget and Evaluation Office, the director of the House Budget and Research Office, and the director of the Office of Planning and Budget. Budgets prepared pursuant to this authority shall be for expenses incurred by a junior college for educational and general expenditures as set forth in the latest edition of the publication entitled “College and University Business Administration.” Such formula shall include financial participation from the local operating authority to include student matriculation fees and funds derived from not less than a one-half nor more than a three-fourths mill tax established by the local operating authority on the ad valorem tax digest of its political subdivision. No state funds shall be appropriated for capital construction. Expenditure under this article shall be audited annually by the Department of Audits and Accounts. (Ga. L. 1958, p. 47, § 5; Ga. L. 1964, p. 686, §§ 2, 6; Ga. L. 1970, p. 645, § 1; Ga. L. 1972, p. 538, § 1; Ga. L. 1975, p. 522, § 1; Ga. L. 2008, p. VO1, § 1-11/HB 529; Ga. L. 2014, p. 866, § 20/SB 340.)

The 2014 amendment, effective April 29, 2014, part of an Act to revise, modernize, and correct the Code, substituted “Senate Budget Office” for “House Budget and Research Office” for “House Budget Office” in the first sentence of this Code section.

ARTICLE 7

SCHOLARSHIPS, LOANS, AND GRANTS

PART 1

GEORGIA STUDENT FINANCE
COMMISSION

20-3-236. Powers and duties of commission, board of commissioners, and officers.

In addition to all other provisions of this part and in furtherance of the purposes of the commission, the commission shall have the following powers, duties, and functions:

- (1) The board of commissioners shall serve as the board of directors of the corporation pursuant to this paragraph and Part 2 of this article; and, whenever they are convened as and are acting in the capacity of the board of directors of the corporation, they shall carry out and fully effectuate the powers, duties, functions, and corporate purposes of the corporation in accordance with Part 2 of this article without regard to any other power, duty, or function vested in them under this part or under any other provision of law;

(2) The board of commissioners shall serve as the board of directors of the authority pursuant to this paragraph and Part 3 of this article; and, whenever they are convened as and are acting in the capacity of the board of directors of the authority, they shall carry out and fully effectuate the powers, duties, functions, and corporate purposes of the authority in accordance with Part 3 of this article without regard to any other power, duty, or function vested in them under this part or under any other provision of law;

(3) The officers of the commission shall serve in the same capacity as officers of the corporation and as officers of the authority, respectively, pursuant to this paragraph and Parts 2 and 3 of this article, respectively. Nothing contained in this part, however, shall be construed to mean or require that the officers of the board of directors of the corporation and the officers of the board of directors of the authority shall be the same persons or that they shall be the same persons who are serving as officers of the board of commissioners under this part;

(4) The commission shall receive all moneys made available to the commission by the General Assembly or otherwise for purposes of the corporation and disburse such moneys to the corporation;

(5) The commission shall receive all moneys made available to the commission by the General Assembly or otherwise for purposes of the authority and disburse such moneys to the authority;

(6) The commission shall receive all moneys made available to the commission by the General Assembly or otherwise for purposes of the commission and use such moneys for purposes of the commission;

(7) The commission shall also have the following additional powers:

(A) To adopt an official seal and to alter the seal at its pleasure;

(B) To maintain a principal office and such other offices as it may deem necessary;

(C) To adopt bylaws and policies for the regulation of its affairs and the conduct of its business;

(D) To adopt rules and regulations necessary or appropriate for the administration of its affairs; the exercise of its powers, duties, and functions; and the accomplishment of its purposes, pursuant to this part;

(E) To enter into agreements and undertakings as may be necessary or appropriate in the exercise of its powers, duties, and functions under this part;

(F) To perform such other acts as may be necessary or appropriate to effectuate the purposes of the commission under this part;

(G) To enter into agreements with the United States government for the purpose of securing the benefits of any federal law which provides federal funds for any student financial aid purpose or for any activity related to student financial aid, including, without limitation, activities such as research activities, the collection and reporting of data, the administration of any activity related to student financial aid, and dissemination of information and services to the public; to comply with the provisions of such federal law; to adopt such rules, regulations, resolutions, and procedures as may be necessary to secure such federal funds; and to provide matching funds as may be required from funds available to the commission;

(H) To solicit, receive, and accept funds from any source, public or private, by gift, grant, bequest, or otherwise, either absolutely or in trust, and to hold, use, invest, administer, and expend such funds on behalf of the commission and for any of its purposes; and to acquire from any source, public or private, by purchase, lease, gift, bequest, or devise, any property, real, personal, or mixed, either absolutely or in trust, and to hold, use, administer, and dispose of such property on behalf of the commission and for any of its purposes; and

(I) To advertise or otherwise promote the programs, functions, and purposes of the commission, the Georgia Higher Education Assistance Corporation, and the Georgia Student Finance Authority and to expend funds available to the commission for such purposes. (Code 1933, § 32-3107, enacted by Ga. L. 1980, p. 835, § 1; Ga. L. 1981, p. 735, § 52; Ga. L. 1992, p. 1001, § 1; Ga. L. 1996, p. 837, § 2; Ga. L. 2014, p. 801, § 1/HB 697.)

The 2014 amendment, effective July 1, 2014, in subparagraph (7)(H), inserted “solicit,” and inserted “, and accept” near the beginning.

PART 2

GEORGIA HIGHER EDUCATION ASSISTANCE CORPORATION

20-3-264. Functions and composition of board of directors; organization and conduct of affairs.

(a) **Functions and composition.** The corporation shall be governed and all of its corporate powers, duties, and functions shall be exercised by a board of directors. The board of directors shall be composed of the same persons who are serving as members of the board of commissioners of the commission pursuant to Code Section 20-3-234.

The executive director of the corporation, or president, if designated by such title by the board of directors, shall be an ex officio member of the board of directors. The board of directors provided for by this subsection shall be the successor to and a continuation of, without interruption, the board of directors of the previously existing Georgia Higher Education Assistance Corporation. No director shall be eligible to become an officer or employee of the corporation for a period of one year after expiration of the director's period of service as a director of the corporation.

(b) **Organization and conduct of affairs.** Subsections (c) through (h) of Code Section 20-3-234, pertaining to the commission and relative to officers of the board of commissioners, meetings of the board of commissioners executive committee, other committees, compensation of commissioners, and advisory councils, inclusively, are incorporated by reference into this subsection and shall apply to the board of directors in the same manner as if fully set out, with conformable language, in this subsection. The board of directors shall organize and conduct its affairs in accordance with such provisions of law; provided, however:

(1) That nothing in this subsection shall be construed to mean that the board of directors must elect the same persons to serve as officers of the board of directors as are elected by the board of commissioners of the commission to serve as officers of the board of commissioners;

(2) That no person serving as a public commissioner of the commission and thereby as a director of the corporation shall receive more than one day's per diem, plus actual expenses incurred, for one day's service or portion thereof rendered to the state; and

(3) That the limitation as to the number of days during any fiscal year that a per diem may be paid to a public commissioner of the commission shall be inclusive of services rendered by such person as a director of the corporation. (Code 1933, § 32-3305, enacted by Ga. L. 1980, p. 835, § 2; Ga. L. 2003, p. 158, § 2; Ga. L. 2014, p. 801, § 2/HB 697.)

The 2014 amendment, effective July 1, 2014, in subsection (a), in the second sentence, deleted "13 members, who shall

be" following "composed of" and deleted "and who shall serve" following "who are serving".

PART 3

GEORGIA STUDENT FINANCE
AUTHORITY

Subpart 1

General Provisions

20-3-314. Functions, composition, organization, and conduct of affairs of board of directors.

(a) **Functions and composition.** The authority shall be governed and all of its corporate powers, duties, and functions shall be exercised by a board of directors. The board of directors shall be composed of the same persons who are serving as members of the board of commissioners of the commission pursuant to Code Section 20-3-234. The executive director of the authority, or president, if designated by such title by the board of directors, shall be an ex officio member of the board of directors. The board of directors provided for by this subsection shall be the successor to and a continuation of, without interruption, the board of directors of the previously existing Georgia Higher Education Assistance Authority. No director shall be eligible to become an officer or employee of the authority for a period of one year after expiration of the director's period of service as a director of the authority.

(b) **Organization and conduct of affairs.** Subsections (c) through (h) of Code Section 20-3-234, pertaining to the commission and relative to officers of the board of commissioners, meetings of the board of commissioners, executive committee, other committees, compensation of commissioners, and advisory councils, inclusively, are incorporated by reference into this subsection and shall apply to the board of directors in the same manner as if fully set out, with conformable language, in this subsection. The board of directors shall organize and conduct its affairs in accordance with such provisions of law; provided, however:

(1) That nothing in this Code section shall be construed to mean that the board of directors must elect the same persons to serve as officers of the board of directors as are elected by the board of commissioners of the commission to serve as officers of the board of commissioners;

(2) That no person serving as a public commissioner of the commission and thereby as a director of the authority shall receive more than one day's per diem plus actual expenses incurred for one day's service or portion thereof rendered to the state; and

(3) That the limitation as to the number of days during any fiscal year that per diem may be paid to a public commissioner of the

commission shall be inclusive of services rendered by such person as a director of the authority. (Ga. L. 1969, p. 683, § 4; Ga. L. 1971, p. 518, § 1; Code 1933, § 32-3705, enacted by Ga. L. 1980, p. 835, § 3; Ga. L. 2003, p. 158, § 5; Ga. L. 2014, p. 801, § 3/HB 697.)

The 2014 amendment, effective July 1, 2014, in subsection (a), in the second sentence, deleted “13 members, who shall be” following “composed of” and deleted “and who shall serve” following “who are serving”.

20-3-316. Powers and duties of authority; employees’ functions; servicing of educational loans; registration with Selective Service System; conflicts with federal or other state law.

In addition to all other provisions of this part as set forth in each subpart of this part and in furtherance of the purposes of the authority, the authority shall have the following general powers, duties, and functions:

- (1) The authority shall establish and administer each student assistance program provided for in the respective subparts of this part in accordance with the provisions of this part. Pursuant thereto, the authority is further authorized:
 - (A) To adopt rules, regulations, and policies necessary, appropriate, or convenient for the administration of its affairs; the execution of its powers, duties, and functions; and the accomplishment of its corporate purposes, as prescribed in each subpart of this part;
 - (B) To receive all moneys made available by the General Assembly or otherwise for the purposes of the authority and to use such moneys in accordance with the subparts of this part;
 - (C) To administer federal funds allotted to the authority or to the state for use by the authority in respect of student financial aid programs provided for in federal laws, related matters, and related administrative costs;
 - (D) To enter into contracts and agreements with schools upon such terms and conditions as may be prescribed by the authority or otherwise agreed upon between the authority and the school, not inconsistent with this part, applicable state or federal law, or agreements entered into between the authority and any federal or state agency;
 - (E) To require that schools located in the state shall designate one or more persons who shall be responsible for receiving and controlling and disbursing, delivering, or crediting to accounts, as the case may be, student aid checks or funds that are required to be or which may optionally be disbursed to, delivered to, or otherwise

provided to the school under this part, for further disbursement, delivery, or credit to the account of students enrolled therein; and to provide for matters relative thereto;

(F) To require that schools located in the state or, with approval of the authority, a combination of schools jointly shall provide fidelity bond coverage of school employees who have access to checks or funds that may be routed through the school under this part to students enrolled therein, in such sums and conditioned in such respects and as to the insured as may be reasonably necessary to protect the interests of the authority; and to provide for matters relative thereto;

(G) To provide for remittance to and proper application by the authority of school refunds to students who are recipients of financial assistance provided by the authority under this part, consistent with the requirements of any other federal or state law, rule, or regulation which provides financial aid to students; and to provide for the application of school refunds relative to those programs;

(H) To limit, suspend, or terminate the participation of a school in any financial assistance program administered by the authority, in accordance with rules and regulations of the authority that are consistent with this part, applicable state or federal laws, and agreements entered into between the authority and the school or any federal or state agency; and to provide for such formal and informal procedures in regard thereto as may be appropriate;

(I) To require that reports, in such form and containing such information as the authority may prescribe, be furnished to the authority by schools as it may deem necessary for the effective performance of its powers, duties, and functions under this part;

(J) To require that such administrative and fiscal procedures be used by the authority and schools as may be necessary to protect the financial interests of the authority and to ensure proper and effective administration of programs administered by the authority;

(K) To keep and maintain, and to require that schools keep and maintain, such records as may be determined to be necessary for proper and efficient administration of the programs under this part; and to require that such school records be made available to employees of the authority for examination and inspection as may be necessary or appropriate;

(L) To secure data, except where specifically prohibited by state or federal law, from any state agency, department, instrumentality,

political subdivision of the state, or any other source, for the purpose of verifying information submitted by a student or a parent when applying for or receiving any financial assistance provided by the authority under this part; and to pay costs incurred by the provider of such data;

(M) Except where specifically prohibited by state or federal law, to obtain from each state agency, department, instrumentality, and political subdivision information contained in its records relative to the present or last known address and telephone number of a borrower, comaker, cosigner, or endorser, identified to the provider by name and social security number, and to pay costs incurred by the provider of such information; and each state agency, department, instrumentality, and political subdivision is authorized and directed to provide the information specified in this subparagraph to the authority upon its request;

(N) To gather information on all educational financial assistance funds available from any source to residents of the state and to disseminate such information through such methods of mass or individual communication as may be necessary better to assure that students and parents are aware of the availability of such financial resources;

(N.1) To advertise or otherwise promote the programs, functions, and purposes of the authority and to expend funds available to the authority for such purposes;

(O) To solicit, receive, and accept funds from any source, public or private, by gift, grant, bequest, loan, or otherwise, either absolutely or in trust, and to hold, use, administer, and expend such funds on its behalf and for any of its corporate purposes; and to acquire from any source, public or private, by purchase, lease, gift, bequest, or devise, any property, real, personal, or mixed, either absolutely or in trust, and to hold, use, administer, and dispose of such property on its behalf and for any of its corporate purposes;

(P) To provide procedures for the filing, hearing, and determination of an appeal made by an aggrieved party of a decision made by the authority in the administration of financial assistance programs provided for in this part and for all matters relative thereto;

(Q) To enter into agreements and undertakings as may be necessary or appropriate in the exercise of its powers, duties, and functions under this part;

(R) To perform such other acts as may be necessary or appropriate to carry out effectively the purposes of the authority under this part;

(S) To adopt an official seal and alter the seal at its pleasure;

(T) To maintain a principal office and such other offices as may be appropriate;

(U) To adopt bylaws and policies for the regulation of its affairs and the conduct of its business;

(V) To bring and defend actions in the name of the authority and to plead and be impleaded;

(W) To do any and all things necessary, desirable, convenient, or incidental for the accomplishment of the objectives of this chapter and to exercise any power usually possessed by private corporations performing similar functions which is not in conflict with the public purposes of the authority or the Constitution and laws of this state, including, but not limited to:

(i) The power to retain accounting and other financial services;

(ii) The power to purchase all kinds of insurance, including, without limitation, insurance against tort liability and against risks of damage to property;

(iii) The power to indemnify and hold harmless any parties contracting with the authority or its agents from damage to persons or property; and

(iv) The power to act as a self-insurer with respect to any loss or liability and to create insurance reserves;

(X) To appoint officers, agents, and employees, to prescribe their duties and qualifications, and to fix their compensation; and

(Y) To incorporate one or more nonprofit corporations to aid the authority in carrying out any of its powers, duties, and functions. Any such nonprofit corporation created pursuant to this subparagraph shall be a body corporate and politic and shall be created pursuant to Chapter 3 of Title 14, the "Georgia Nonprofit Corporation Code," and the Secretary of State shall be authorized to accept such filing. Upon dissolution of any such nonprofit corporation, any assets of such nonprofit corporation shall revert to the authority or to any successor to the authority, or failing such succession, to the State of Georgia. The authority shall not be liable for the debts, obligations, or bonds of any such nonprofit corporation or for the actions or omissions to act of any such nonprofit corporation unless the authority so consents;

(2) Employees of the authority may perform management, supervisory, administrative, and clerical functions required by the commis-

sion and the corporation, and the authority will be compensated for such expenses as directed by the board of commissioners;

(3) To service or contract for the servicing of educational loans, including the servicing of such loans by the authority on behalf of others, to contract in advance for the servicing of educational loans, and to contract for the performance by the authority of educational loans;

(4) Each applicant who, as of the date of application for financial assistance under this part, is required but has not registered with the Selective Service System of the United States pursuant to 50 U.S.C. Section 453, as amended, shall be ineligible to receive financial assistance under this part. Each applicant shall, under penalty of perjury, certify compliance or noncompliance with the registration requirements of the Military Selective Service Act of the United States and provide such other information as the authority may reasonably require. A person may not be denied state student financial aid by reason of failure to present himself for and submit to registration under Section 3, 50 U.S.C. Appx. Section 453, if the requirement for the person to so register has terminated or become inapplicable to the person; and the person shows by a preponderance of the evidence that the failure of the person to register was not a knowing and willful failure to register;

(5) If any conflict exists between this part and Part 2 of this article, the federal act, or other federal laws, or any rules or regulations promulgated under the federal act, which conflict will result in a loss by the authority of any federal funds or other funds that would otherwise be available to it for carrying out its purposes under this part, the authority is authorized and directed to adopt appropriate rules, regulations, and policies, consistent with Part 2 of this article, the federal act, or such other federal laws to remove such conflict and thereby to provide for the receipt of such funds; provided, however, that such rules, regulations, or policies are not in derogation of the Constitution or laws of this state, other than this part, or any contract to which the authority is a party and are wholly in conformity with the purposes of the authority as set forth in this part; and

(6) To the extent that this part is inconsistent with any other state general or special law, rule, or regulation, other than Part 2 of this article, this part shall be controlling. (Code 1933, § 32-3707, enacted by Ga. L. 1980, p. 835, § 3; Ga. L. 1981, p. 735, § 34; Ga. L. 1986, p. 759, § 2; Ga. L. 1992, p. 6, § 20; Ga. L. 1992, p. 1001, §§ 4, 5; Ga. L. 1995, p. 961, § 8; Ga. L. 1996, p. 837, §§ 3, 4; Ga. L. 2003, p. 904, § 1.1; Ga. L. 2005, p. 1134, § 2/HB 298; Ga. L. 2014, p. 801, §§ 4, 5/HB 697.)

The 2014 amendment, effective July 1, 2014, in subparagraph (1)(O), inserted “solicit,” and inserted “, and accept” near the beginning; substituted a semicolon for

“; and” at the end of division (1)(W)(iv); substituted “; and” for a semicolon at the end of subparagraph (1)(X); and added subparagraph (1)(Y).

20-3-316.1. Selection on tax form of nonprofit corporations established by the Georgia Student Finance Authority for contribution.

(a) Each Georgia income tax return form for taxable years beginning on or after January 1, 2015, shall contain appropriate language, to be determined by the state revenue commissioner, offering the taxpayer the opportunity to contribute to the nonprofit corporations established by subparagraph (Y) of paragraph (1) of Code Section 20-3-316 to assist students with educational expenses by either donating all or any part of any tax refund due and by authorizing a reduction in the refund check otherwise payable, or by contributing any amount over and above any amount of tax owed by adding that amount to the taxpayer’s payment. The instructions accompanying the income tax return shall include a description of the purposes for which the nonprofit corporations were established and the intended use of moneys received from the contributions. Each taxpayer required to file a state income tax return who desires to contribute to these nonprofit corporations may designate such contribution as provided on the appropriate income tax return form.

(b) The Department of Revenue shall determine annually the total amount so contributed, and shall transmit such amount to the authority for even division among and deposit in the nonprofit corporations established by subparagraph (Y) of paragraph (1) of Code Section 20-3-316. (Code 1981, § 20-3-316.1, enacted by Ga. L. 2014, p. 801, § 6/HB 697.)

Effective date. — This Code section became effective July 1, 2014.

Cross references. — Income taxes, T. 48, C. 7.

Subpart 4D

Taxpayer Contribution to Student Loan Funds

20-3-409. Taxpayer opportunity to contribute to student loan funds; contribution amounts.

Repealed by Ga. L. 2014, p. 801, § 7/HB 697, effective July 1, 2014.

Editor’s notes. — This Code section was based on Code 1981, § 20-3-409, enacted by Ga. L. 2008, p. 626, § 5/SB 169.

Subpart 5A

University of North Georgia Military Scholarships

20-3-420. Legislative purpose; designation of University of North Georgia as premier senior military college of Georgia.

(a) The General Assembly finds that the University of North Georgia, a unit of the University System of Georgia, is widely recognized as one of the most outstanding senior military colleges in the United States and that its outstanding status as a senior military college has been formally recognized by the board of regents and by the Department of the Army of the United States. The purpose of this subpart is to recognize this status of the University of North Georgia and to enable Georgia's most gifted young people who are interested in pursuing a military career to attend this state's premier senior military college under a full scholarship.

(b) The General Assembly officially designates the University of North Georgia as the premier senior military college of Georgia. (Ga. L. 1980, p. 1292, § 2; Code 1933, § 32-3783, enacted by Ga. L. 1981, p. 735, § 51; Ga. L. 2013, p. 1048, § 1/SB 82.)

The 2013 amendment, effective July 1, 2013, designated the existing Code section as subsection (a); and, in subsection (a), substituted "the University of North Georgia" for "North Georgia College" in

the first and second sentences, and substituted "this state's" for "the state's" near the end of the second sentence; and added subsection (b).

20-3-421. Eligibility for scholarship.

(a) In order for a student to qualify as a nominee for and to be a recipient of a scholarship under this subpart, the student shall meet the following standards and requirements:

(1) The student shall be a resident of Georgia;

(2) The student shall have demonstrated academic excellence at the high school level;

(3) The student shall meet mental and physical health standards required for commission in the Army National Guard; and

(4) The student shall qualify for regular admission to the University of North Georgia.

(b) If selected as a recipient of a scholarship under this subpart, a student, in order to maintain eligibility for the scholarship, shall:

(1) Maintain standards of academic excellence and standards of conduct as established by the University of North Georgia;

(2) Maintain minimum full-time enrollment of at least 12 hours each quarter;

(3) Participate in military and Reserve Officers' Training Corps programs at the University of North Georgia;

(4) Maintain membership in good standing in the Army National Guard;

(5) Demonstrate the qualities required of a commissioned officer in the United States armed forces; and

(6) Upon graduation from the University of North Georgia, accept a commission as a second lieutenant and agree to serve not less than four years in the Georgia Army National Guard; however, terms of the scholarship may be met by acceptance of a commission and active duty service for not less than four years in the United States Army or a combination of service in the active army and the Georgia Army National Guard for not less than four years upon certification by the adjutant general that no need exists in the Georgia Army National Guard at the time of the commencement of the period of active service.

(c) No recipient of a scholarship under this subpart shall be eligible to receive financial aid assistance under any other student financial aid program authorized by the laws of this state. (Ga. L. 1980, p. 1292, § 3; Code 1933, § 32-3784, enacted by Ga. L. 1981, p. 735, § 51; Ga. L. 1983, p. 778, § 1; Ga. L. 2013, p. 1048, § 1/SB 82.)

The 2013 amendment, effective July 1, 2013, substituted "the University of North Georgia" for "North Georgia College" throughout this Code section; and substituted "student shall" for "student must" in paragraph (a)(3).

20-3-422. Nomination of candidates for scholarships.

Editor's notes. — Ga. L. 2013, p. 1048, § 1/SB 82, effective July 1, 2013, reenacted this Code section without change. Refer to bound volume for text of this Code section.

20-3-423. Creation and composition of selection committee; duties of selection committee.

(a) For the purpose of considering nominations submitted under Code Section 20-3-422, there is created a selection committee, the membership of which shall be as follows:

(1) The chief executive officer of the University of North Georgia or his or her designated representative, who shall serve as chairperson of the selection committee;

(2) The professor of military science at the University of North Georgia or his or her designated representative;

(3) The director of admissions of the University of North Georgia;

(4) A civilian faculty member of the University of North Georgia designated by the chief executive officer of the university;

(5) A commissioned officer of the Army National Guard designated by the adjutant general;

(6) The chairperson of the House Committee on Higher Education or his or her designee;

(7) The chairperson of the Senate Higher Education Committee or his or her designee; and

(8) The executive director of the Georgia Student Finance Authority or his or her designated representative.

(b) It shall be the duty of the selection committee to select, from the six nominees from each congressional district submitted to the committee pursuant to Code Section 20-3-422, three persons from each congressional district to receive a scholarship under this subpart. In the event a congressional district does not have three qualified candidates, the committee may select a candidate or candidates at large from alternate nominees among the original candidates without regard to the congressional district of residence. Upon selecting the recipients of scholarships, the committee shall:

(1) Notify each recipient of the scholarship;

(2) Notify each member of the legislative delegation from each congressional district of the names of the recipients of the scholarships from that congressional district; and

(3) Notify the authority of the names and addresses of the recipients of the scholarships.

(c) The selection committee shall have the following additional duties:

(1) To publish in print or electronically and maintain standards of academic excellence and conduct necessary for continued eligibility for a scholarship under this subpart; and

(2) To monitor the performance of the recipients of scholarships under this subpart in accordance with the standards promulgated under paragraph (1) of this subsection. (Ga. L. 1980, p. 1292, § 5; Code 1933, § 32-3786, enacted by Ga. L. 1981, p. 735, § 51; Ga. L. 1983, p. 778, § 2; Ga. L. 1984, p. 721, § 2; Ga. L. 1987, p. 468, § 2; Ga. L. 1990, p. 1903, § 4; Ga. L. 2001, p. 4, § 20; Ga. L. 2010, p. 838, § 10/SB 388; Ga. L. 2013, p. 1048, § 1/SB 82.)

The 2013 amendment, effective July 1, 2013, substituted “the University of North Georgia” for “North Georgia College” throughout subsection (a); substituted “university” for “college” at the end of paragraph (a)(4); in paragraph (a)(6),

substituted “House Committee on Higher Education” for “House Higher Education Committee” and deleted “from that committee” at the end; and deleted “from that committee” following “designee” in paragraph (a)(7).

20-3-424. Amount of scholarship awards; duration of awards.

Scholarship awards made under this subpart shall cover all costs for room, board, matriculation, fees, uniform deposits, and an allowance for books and supplies. Scholarship assistance may be provided to a recipient under this article for a maximum period of eight academic semesters. (Ga. L. 1980, p. 1292, § 7; Code 1933, § 32-3787, enacted by Ga. L. 1981, p. 735, § 51; Ga. L. 2013, p. 1048, § 1/SB 82.)

The 2013 amendment, effective July 1, 2013, substituted “eight academic se-

mesters” for “12 academic quarters” near the end of this Code section.

20-3-425. Failure of scholarship recipient to meet service obligations.

(a) If the recipient of a scholarship under this subpart fails to honor his or her obligation to serve in the Army National Guard or the United States Army as provided in paragraph (6) of subsection (b) of Code Section 20-3-421, such recipient shall, at the option of the recipient, either:

(1) Serve not less than four years as an enlisted member of the Army National Guard or United States Army; or

(2) Pay to the authority an amount equal to the amount of scholarship assistance received by the recipient under this subpart, plus interest, such amount to be paid, in accordance with regulations of the authority, within five years after the recipient graduates from or terminates his or her enrollment in the University of North Georgia.

(b) Subsection (a) of this Code section shall not apply to any person who, for bona fide reasons of health as jointly verified by the authority and the selection committee, is unable to honor the obligation provided for in paragraph (6) of subsection (b) of Code Section 20-3-421. (Ga. L. 1980, p. 1292, § 8; Code 1933, § 32-3788, enacted by Ga. L. 1981, p. 735, § 51; Ga. L. 1983, p. 778, § 4; Ga. L. 2013, p. 1048, § 1/SB 82.)

The 2013 amendment, effective July 1, 2013, inserted “or her” near the middle of the introductory paragraph of subsection (a) and near the end of paragraph

(a)(2); and substituted “the University of North Georgia” for “North Georgia College” in paragraph (a)(2).

20-3-426. Effect of failure to meet standards and requirements for continued eligibility for scholarship; filling of vacancies.

Editor’s notes. — Ga. L. 2013, p. 1048, § 1/SB 82, effective July 1, 2013, reenacted this Code section without change. Refer to bound volume for text of this Code section.

20-3-427. Promulgation of rules and regulations by authority; funding of scholarship program.

Editor’s notes. — Ga. L. 2013, p. 1048, § 1/SB 82, effective July 1, 2013, reenacted this Code section without change. Refer to bound volume for text of this Code section.

Subpart 6

University of North Georgia Reserve Officers’ Training Corps Grant Program

20-3-430. Legislative findings; purpose of subpart.

The General Assembly finds that it is essential for the national defense that persons be encouraged to consider military leadership positions as an honorable and rewarding profession and that the University of North Georgia, Georgia’s only state supported military college, plays a significant role in preparing and training students for professional life in the military as a profession. It is the purpose of the General Assembly, as provided for in this subpart, to encourage students to enroll in the University of North Georgia and its military training program by providing for tuition grant assistance to such students. (Ga. L. 1976, p. 503, § 1; Code 1933, § 32-3766, enacted by Ga. L. 1980, p. 835, § 3; Ga. L. 1992, p. 6, § 20; Ga. L. 2013, p. 1048, § 2/SB 82.)

The 2013 amendment, effective July 1, 2013, substituted “the University of North Georgia” for “North Georgia College” in the first and second sentences of this Code section.

20-3-431. “Eligible student” defined.

For purposes of this subpart, the term “eligible student” means a person who:

- (1) Is enrolled in or accepted for enrollment in the University of North Georgia for a minimum of 12 academic hours;
- (2) Is or will be a citizen of this state for a period of at least 12 months immediately prior to the date of registration therein; and

(3) Is enrolled in or plans to enroll in the Army Reserve Officers' Training Corps program at the University of North Georgia. (Ga. L. 1976, p. 503, § 3; Code 1933, § 32-3767, enacted by Ga. L. 1980, p. 835, § 3; Ga. L. 2009, p. 8, § 20/SB 46; Ga. L. 2013, p. 1048, § 2/SB 82.)

The 2013 amendment, effective July 1, 2013, in this Code section, substituted "means" for "shall mean" in the introduc-

tory paragraph; and substituted "the University of North Georgia" for "North Georgia College" in paragraphs (1) and (3).

20-3-432. Amount for each eligible student.

There is granted to each eligible student attending the University of North Georgia the sum of \$750.00 per academic semester. (Ga. L. 1976, p. 503, § 2; Ga. L. 1978, p. 1385, § 1; Code 1933, § 32-3768, enacted by Ga. L. 1980, p. 835, § 3; Ga. L. 1995, p. 885, § 1; Ga. L. 2013, p. 1048, § 2/SB 82.)

The 2013 amendment, effective July 1, 2013, in this Code section, substituted "the University of North Georgia" for

"North Georgia College" and substituted "\$750.00 per academic semester" for "\$500.00 per academic quarter".

20-3-433. Application for and payment of grants; certification of eligibility; refunds if students fail to enroll.

Each eligible student wishing to receive the grant provided for in this subpart shall submit to the University of North Georgia an application for the grant payment at the time and in accordance with procedures prescribed by the authority. The authority is authorized to define such terms and prescribe such rules, regulations, and procedures as may be reasonable and necessary to carry out the purposes of this subpart. The authority shall not approve payment of any grant until it has received from an appropriate officer of the University of North Georgia a certification that the student applying for the grant is an eligible student. Upon timely receipt of such certification, in proper form, the authority is authorized to pay the grant to the University of North Georgia on behalf of and to the credit of the student. In the event a student on whose behalf a grant is paid does not enroll as a full-time student for the school term for which the grant is paid, the University of North Georgia shall make a refund to the authority in accordance with regulations of the authority. (Ga. L. 1976, p. 503, §§ 4, 5; Code 1933, § 32-3769, enacted by Ga. L. 1980, p. 835, § 3; Ga. L. 2013, p. 1048, § 2/SB 82.)

The 2013 amendment, effective July 1, 2013, substituted “the University of North Georgia” for “North Georgia College” throughout this Code section, and substituted “does not enroll” for “shall not enroll” near the middle of the last sentence.

20-3-434. Pro rata reduction of grants when funds are insufficient.

Editor’s notes. — Ga. L. 2013, p. 1048, § 2/SB 82, effective July 1, 2013, reenacted this Code section without change. Refer to bound volume for text of this Code section.

20-3-435. Audits of university; refund of grants for ineligible students.

The University of North Georgia shall be subject to examination by the state auditor for the sole purpose of determining whether the school has properly certified eligibility and enrollment of students and credited grants paid on behalf of such students. However, nothing in this subpart shall be construed to interfere with the authority of the school to determine admissibility of students or to control its own curriculum, philosophy, purpose, or administration. In the event it is determined that the school knowingly or through error certified an ineligible student to be eligible for a grant under this subpart, the amount of the grant paid to the school pursuant to such certification shall be refunded by the school to the authority. (Ga. L. 1976, p. 503, § 6; Code 1933, § 32-3771, enacted by Ga. L. 1980, p. 835, § 3; Ga. L. 2013, p. 1048, § 2/SB 82.)

The 2013 amendment, effective July 1, 2013, substituted “The University of North Georgia” for “North Georgia College” in the first sentence of this Code section.

20-3-436. Penalty for furnishing or accepting false statement as to eligibility.

Editor’s notes. — Ga. L. 2013, p. 1048, § 2/SB 82, effective July 1, 2013, reenacted this Code section without change. Refer to bound volume for text of this Code section.

Subpart 6A

Tuition Grant Assistance for University of North Georgia

20-3-440. Legislative findings.

The General Assembly finds that it is essential for the national defense that persons be encouraged to consider military leadership positions as an honorable and rewarding profession and that the

University of North Georgia, Georgia's only state supported military college, plays a significant role in preparing and training students for professional life in the military as a profession. It is the purpose of the General Assembly, as provided for in this subpart, to encourage students to enroll in the University of North Georgia and its military training program and to encourage such students to accept military commissions by providing for tuition grant assistance to such students. (Code 1981, § 20-3-440, enacted by Ga. L. 2008, p. 626, § 6/SB 169; Ga. L. 2013, p. 1048, § 3/SB 82.)

The 2013 amendment, effective July 1, 2013, substituted "the University of North Georgia" for "North Georgia College and State University" twice in this Code section.

20-3-441. "Eligible student" defined.

For purposes of this subpart, the term "eligible student" means a person who:

- (1) Is enrolled in or accepted for enrollment in the University of North Georgia for a minimum of 12 academic hours;
- (2) Is or will be a citizen of this state for a period of at least 12 months immediately prior to the date of registration therein;
- (3) Is enrolled in or plans to enroll in the Army Reserve Officers' Training Corps program at the University of North Georgia; and
- (4) Has signed a contract to accept a commission, to be effective upon graduation, no later than the end of the student's junior year as an officer in any branch of the armed services of the United States or the Army National Guard. (Code 1981, § 20-3-441, enacted by Ga. L. 2008, p. 626, § 6/SB 169; Ga. L. 2013, p. 1048, § 3/SB 82.)

The 2013 amendment, effective July 1, 2013, substituted "means" for "shall mean" in the introductory paragraph of this Code section; and substituted "the University of North Georgia" for "North Georgia College and State University" in paragraphs (1) and (3).

20-3-442. Amount of grant.

There is granted to each eligible student attending the University of North Georgia the sum of \$1,500.00 per academic semester. (Code 1981, § 20-3-442, enacted by Ga. L. 2008, p. 626, § 6/SB 169; Ga. L. 2013, p. 1048, § 3/SB 82.)

The 2013 amendment, effective July 1, 2013, substituted "the University of North Georgia" for "North Georgia College and State University" in this Code section.

20-3-443. Application for grants; certification of eligibility; refunds.

Each eligible student wishing to receive the grant provided for in this subpart shall submit to the University of North Georgia an application for the grant payment at the time and in accordance with procedures prescribed by the authority. The authority is authorized to define such terms and prescribe such rules, regulations, and procedures as may be reasonable and necessary to carry out the purposes of this subpart. The authority shall not approve payment of any grant until it has received from an appropriate officer of the University of North Georgia a certification that the student applying for the grant is an eligible student. Upon timely receipt of such certification, in proper form, the authority is authorized to pay the grant to the University of North Georgia on behalf of and to the credit of the student. In the event a student on whose behalf a grant is paid does not enroll as a full-time student for the school term for which the grant is paid, the University of North Georgia shall make a refund to the authority in accordance with regulations of the authority. (Code 1981, § 20-3-443, enacted by Ga. L. 2008, p. 626, § 6/SB 169; Ga. L. 2013, p. 1048, § 3/SB 82.)

The 2013 amendment, effective July 1, 2013, in this Code section, substituted “the University of North Georgia” for “North Georgia College and State Univer-

sity” throughout, and substituted “does not enroll” for “shall not enroll” near the beginning of the last sentence.

20-3-444. Pro rata reduction when funds are insufficient.

Editor’s notes. — Ga. L. 2013, p. 1048, § 3/SB 82, effective July 1, 2013, reenacted this Code section without change.

Refer to bound volume for text of this Code section.

20-3-445. Audits of the university.

The University of North Georgia shall be subject to examination by the state auditor for the sole purpose of determining whether the school has properly certified eligibility and enrollment of students and credited grants paid on behalf of such students. However, nothing in this subpart shall be construed to interfere with the authority of the school to determine admissibility of students or to control its own curriculum, philosophy, purpose, or administration. In the event it is determined that the school knowingly or through error certified an ineligible student to be eligible for a grant under this subpart, the amount of the grant paid to the school pursuant to such certification shall be refunded by the school to the authority. (Code 1981, § 20-3-445, enacted by Ga. L. 2008, p. 626, § 6/SB 169; Ga. L. 2013, p. 1048, § 3/SB 82.)

The 2013 amendment, effective July 1, 2013, substituted “The University of North Georgia” for “North Georgia College and State University” in the first sentence of this Code section.

20-3-446. Penalty for false statements.

Editor’s notes. — Ga. L. 2013, p. 1048, § 3/SB 82, effective July 1, 2013, reenacted this Code section without change. Refer to bound volume for text of this Code section.

Subpart 11

Grants for Students at University of North Georgia

20-3-491. Applications for scholarship grants; administration of program.

(a) Subject to appropriations by the General Assembly, the authority shall establish a program of two-year scholarship grants for eligible students attending the University of North Georgia and participating in a Reserve Officers’ Training Corps program while so enrolled. Any person meeting the conditions of this subpart may apply to the authority for a grant. Such application shall be submitted in writing on forms prescribed by the authority for such purpose. The applicant shall furnish such information as may be required by the authority for determination of eligibility for the grant. The authority shall approve grant renewals only upon receipt of the recipient’s application therefor and upon a finding that the recipient has successfully completed the work of the preceding school period and presents evidence that he or she is a student in good standing, that he or she remains a citizen of this state, and that he or she remains otherwise qualified to receive such grant under this subpart.

(b) The authority is authorized to prescribe such rules and regulations as may be necessary or convenient for administration of this program and to establish procedures for determination of eligibility of applicants. (Code 1981, § 20-3-491, enacted by Ga. L. 1998, p. 1656, § 1; Ga. L. 2013, p. 1048, § 4/SB 82.)

The 2013 amendment, effective July 1, 2013, substituted “the University of North Georgia” for “North Georgia College” in the first sentence of subsection (a).

PART 6

MEDICAL SCHOLARSHIPS

20-3-512. Powers as to medical student loans and scholarships.

(a) It shall be the duty of the board to receive and pass upon, allow or disallow all applications for loans made to or scholarships given to students who are bona fide citizens and residents of the State of Georgia and who desire to become doctors of medicine and who are acceptable for enrollment in an accredited medical school in the United States which has received accreditation or provisional accreditation by the Liaison Committee on Medical Education or the Bureau of Professional Education of the American Osteopathic Association for a program in medical education designed to qualify the graduate for licensure by the Georgia Composite Medical Board. The purpose of such loans shall be to enable such applicants to obtain a standard medical education from a medical school in the United States which has received accreditation or provisional accreditation by the Liaison Committee on Medical Education or the Bureau of Professional Education of the American Osteopathic Association which will qualify them to become licensed to practice medicine in the State of Georgia. It shall be the duty of the board to make a careful and full investigation of the ability, character, and qualifications of each applicant and determine the applicant's fitness to become the recipient of such loan or scholarship, and for such purpose the board may propound such examination to each applicant which it deems proper. The board may also prescribe such rules and regulations as it deems necessary and proper to carry out the purpose and intention of this part. The investigation of the applicant shall include an investigation of the ability of the applicant, and of the parents of such applicant, to pay his or her own tuition at such medical school, and the board in granting such loans and scholarships shall give preference to qualified applicants who, and whose parents, are unable to pay the applicant's tuition at such a medical school.

(b) The board shall have authority to grant to each applicant deemed by the board to be qualified to receive the same a loan or scholarship on a one-year renewable basis for the purpose of acquiring a medical education from a medical school in the United States which has received accreditation or provisional accreditation by the Liaison Committee on Medical Education or the Bureau of Professional Education of the American Osteopathic Association, upon such terms and conditions as in the judgment of the board may be necessary or desirable. The board is authorized to consider, among other criteria, the home area of the student and the likelihood, if determinable, that the student will practice medicine in an area of this state which may entitle the student to repay the loan through services rendered as provided in this part.

(Code 1981, § 20-3-512, enacted by Ga. L. 1983, p. 951, § 1; Ga. L. 1984, p. 22, § 20; Ga. L. 2009, p. 859, § 2/HB 509; Ga. L. 2011, p. 459, § 1/HB 509; Ga. L. 2014, p. 333, § 1/HB 998.)

The 2014 amendment, effective July 1, 2014, inserted “from a medical school in the United States which has received accreditation or provisional accreditation by the Liaison Committee on Medical Education or the Bureau of Professional Education of the American Osteopathic Association” in the second sentence of subsection (a) and the first sentence of subsection (b); in subsection (a), in the first sentence, inserted “to” preceding “students who are

bona fide”, deleted “four-year” preceding “medical school”, and deleted “of the American Medical Association” following “Liaison Committee on Medical Education”, deleted “four-year” following “obtain a standard” in the second sentence, and substituted “such” for “that” in the third sentence; and deleted “standard four-year” following “purpose of acquiring a” in the first sentence of subsection (b).

20-3-513. Determination of amount by board; terms and conditions; repayment in services.

Students whose applications are approved shall receive a loan or scholarship in an amount to be determined by the board to defray the tuition and other expenses of the applicant in an accredited medical school in the United States which has received accreditation or provisional accreditation by the Liaison Committee on Medical Education or the Bureau of Professional Education of the American Osteopathic Association for a program in medical education designed to qualify the graduate for licensure by the Georgia Composite Medical Board. The loans and scholarships shall be paid in such manner as the Georgia Board for Physician Workforce shall determine and may be prorated so as to pay to the medical college or school to which any applicant is admitted such funds as are required by such college or school with the balance being paid directly to the applicant; all of which shall be under such terms and conditions as may be provided under rules and regulations of the board. The loans or scholarships to be granted to each applicant shall be based upon the condition that the full amount of the loans or scholarships shall be repaid to the State of Georgia in services to be rendered by the applicant by practicing his or her profession in an area of this state which is rural and underserved by primary care physicians as determined by the board, in a regional area of this state composed of rural counties where an unmet need for certain primary care and other critical need specialty physicians exists as determined by the board and approved by the commissioners of community health and public health, or at any hospital or facility operated by or under the jurisdiction of the Department of Public Health, the Department of Behavioral Health and Developmental Disabilities, the Department of Corrections, or the Department of Juvenile Justice. For each year of practicing his or her profession in such board approved location, the applicant shall receive credit for the amount of the scholarship received

during any one year in medical school, with the interest due on such amount. (Code 1981, § 20-3-513, enacted by Ga. L. 2014, p. 333, § 2/HB 998.)

Effective date. — This Code section became effective July 1, 2014.

Editor’s notes. — This Code section formerly pertained to determination of amount by board, terms and conditions, and repayment in services. The former Code section was based on Ga. L. 1983, p. 951, § 1; Ga. L. 1984, p. 22, § 20; Ga. L. 1985, p. 283, § 1; Ga. L. 1985, p. 1122, § 1; Ga. L. 1996, p. 265, § 1; Ga. L. 1997, p. 1453, § 1; Ga. L. 1999, p. 402, § 2; Ga. L. 2008, p. 12, § 2-3/SB 433; Ga. L. 2009, p. 859, § 2/HB 509; Ga. L. 2010, p. 286, § 17/SB 244; Ga. L. 2011, p. 459, § 1/HB 509, and was repealed by Ga. L. 2014, p. 333, § 2/HB 998, effective July 1, 2014.

20-3-514. Contract provisions for loan or scholarship.

(a) Each applicant before being granted a loan or scholarship shall enter into a contract with the State of Georgia agreeing to the terms and conditions upon which the loan or scholarship is granted, including such terms and provisions as will carry out the full purpose and intent of this part. The form of such contract shall be prepared and approved by the Attorney General, and each contract shall be signed by the chairperson of the board, countersigned by the executive director of the board, and shall be signed by the applicant. For the purposes of this part, the disabilities of minority of all applicants granted loans or scholarships pursuant to this part are removed, and such applicants are declared to be of full lawful age for the purpose of entering into the contract provided for in this Code section; and such contract so executed by an applicant is declared to be a valid and binding contract the same as though such applicant were of the full age of majority. The board is vested with full and complete authority to bring an action in its own name against any applicant for any balance due the board on any such contract.

(b) An applicant who has entered into a loan or scholarship contract with the board and who:

- (1) Is dismissed for either academic or disciplinary reasons from the college or school of medicine he or she is attending;
- (2) Voluntarily terminates his or her training and education in such institution for any reason prior to completion of training; or
- (3) Is unable to obtain licensure from the Georgia Composite Medical Board to practice medicine

shall be immediately liable to the board for all sums advanced with interest at the minimum rate of 12 percent per annum from the date of each payment by the board and compounded annually to the date the scholarship or loan is paid in full; provided, however, that the board may consent or agree to a lesser measure of damages for compelling

reasons as determined by the board. The board is authorized to increase annually such rate of interest due on loans granted to new recipients; provided, however, that the increased rate of interest shall not exceed by more than 2 percent the prime rate published by the Board of Governors of the Federal Reserve System and in effect at the time of the increase.

(c) An applicant who has entered into a loan or scholarship contract with the board and who breaches such contract by either failing to begin or failing to complete his or her service obligation under such loan or scholarship contract or who fails to obtain licensure from the Georgia Composite Medical Board to practice medicine shall be immediately liable to the board for three times the total uncredited amount of all such scholarship or loan payments paid to the applicant, such uncredited sums to be prorated on a monthly basis respecting the applicant's actual service and total service obligation. The board may consent or agree to a lesser measure of damages for compelling reasons as determined by the board.

(d) The board shall have the authority to cancel the loan or scholarship contract of any applicant at any time for any cause deemed sufficient by the board, provided that such authority may not be arbitrarily or unreasonably exercised. Upon such cancellation by the board, the total uncredited amount of the scholarship paid to the applicant shall at once become due and payable to the board in cash with interest at the minimum rate of 12 percent per annum from the date of each payment by the board and compounded annually to the date the scholarship or loan is paid in full. The board is authorized to increase annually such rate of interest, subject to the limitations set forth in subsection (b) of this Code section. (Code 1981, § 20-3-514, enacted by Ga. L. 1983, p. 951, § 1; Ga. L. 1984, p. 22, § 20; Ga. L. 1985, p. 1122, § 2; Ga. L. 1999, p. 402, § 3; Ga. L. 2011, p. 459, § 1/HB 509; Ga. L. 2014, p. 333, § 3/HB 998.)

The 2014 amendment, effective July 1, 2014, in subsection (a), in the third sentence, twice substituted "such" for "the said" and added a comma following "part"; in subsection (b), deleted "or" at the end of paragraph (b)(1), in paragraph (b)(2), substituted "such" for "that" and added "; or" at the end and added paragraph (b)(3); in the ending undesignated paragraph of subsection (b), added the proviso and sub-

stituted "such" for "said" near the middle of the last sentence; and in subsection (c), in the first sentence, substituted "such" for "that" near the middle and inserted "or who fails to obtain licensure from the Georgia Composite Medical Board to practice medicine" in the middle, and added "as determined by the board" at the end of the second sentence.

20-3-518. Legislative purpose.

It is the purpose and intent of this part to bring about an adequate supply of persons licensed to practice medicine in the more sparsely

populated areas of the State of Georgia by increasing the number of medical students from Georgia with scholarships awarded by the board pursuant to this part attending the various medical schools and inducing a sufficient number of the graduates from medical schools to return to Georgia and practice their profession in rural and underserved areas, thus affording adequate medical care to the people of Georgia. (Code 1981, § 20-3-518, enacted by Ga. L. 1983, p. 951, § 1; Ga. L. 2011, p. 459, § 1/HB 509; Ga. L. 2014, p. 333, § 4/HB 998.)

The 2014 amendment, effective July 1, 2014, substituted “Georgia with scholarships awarded by the board pursuant to this part attending” for “Georgia in” in the middle and inserted “in rural and underserved areas” near the end of this Code section.

PART 7

HOPE SCHOLARSHIPS AND GRANTS

20-3-519. Definitions.

As used in this part, the term:

- (1) “Academic year” means a period of time, typically nine months, in which a full-time student is expected to complete the equivalent of at least two semesters’ or three quarters’ academic work.
- (2) Reserved.
- (3) Reserved.
- (4) “Certificate” or “diploma” means a credential, other than a degree, indicating satisfactory completion of training in a program of study offered by an eligible postsecondary institution.
- (5) “Dual credit enrollment” means enrollment by a student in a postsecondary course in which an agreement has been established between an eligible high school and an eligible postsecondary institution wherein the student earns Carnegie units of credit that count toward both high school graduation requirements and postsecondary coursework requirements.
- (6) “Eligible high school” means a public or private secondary school which is:
 - (A) Located in Georgia and accredited as such by:
 - (i) The Southern Association of Colleges and Schools;
 - (ii) The Georgia Accrediting Commission;
 - (iii) The Georgia Association of Christian Schools;
 - (iv) The Association of Christian Schools International;

- (v) The Georgia Private School Accreditation Council; or
- (vi) The Southern Association of Independent Schools;

provided, however, that between July 1, 2013, and June 30, 2015, if a high school located in Georgia was accredited by one of the accrediting agencies included in this subparagraph within the previous two years, such high school shall be considered an eligible high school for purposes of this subparagraph; or

(B) Located in another state and accredited by one of the following regional agencies:

- (i) The Southern Association of Colleges and Schools;
- (ii) The New England Association of Schools and Colleges;
- (iii) The Middle States Association of Colleges and Schools;
- (iv) The North Central Association of Colleges and Schools;
- (v) The Northwestern Association of Schools and Colleges;
- (vi) The Western Association of Schools and Colleges;
- (vii) The Alabama Independent School Association; or
- (viii) The Southern Association of Independent Schools.

(7) “Eligible postsecondary institution” means a school which is:

- (A) A unit of the University System of Georgia;
- (B) A branch of the Technical College System of Georgia;

(C) A private independent nonprofit postsecondary institution eligible for tuition equalization grants in accordance with the provisions of subparagraph (A) of paragraph (2) of Code Section 20-3-411; or

(D) A private proprietary postsecondary institution eligible for tuition equalization grants in accordance with the provisions of subparagraph (B) of paragraph (2) of Code Section 20-3-411.

(8) “Eligible private postsecondary institution” means an eligible postsecondary institution which meets the criteria set out in subparagraph (C) or (D) of paragraph (7) of this Code section.

(9) “Eligible public postsecondary institution” means an eligible postsecondary institution which meets the criteria set out in subparagraph (A) or (B) of paragraph (7) of this Code section.

(9.1) “Factor rate” means the percentage amount established by the Georgia Student Finance Commission against which the previous year HOPE award amount is multiplied.

(9.2) “First professional degree program” means a nonundergraduate degree program that meets the requirements established by the program regulations promulgated by the Georgia Student Finance Commission which, at a minimum, shall include, but not be limited to, the following:

(A) Accepts students after the completion of the sophomore or junior year; and

(B) Results in the award of a nonundergraduate degree.

(10) “Freshman student” means a student at a postsecondary institution who has attempted less than 46 quarter hours or less than 31 semester hours.

(11) “Full-time student” means a matriculated student attending a postsecondary educational institution and enrolled for at least 12 semester hours or the equivalent in any given semester or quarter.

(12) “Grade point average” means the numbered grade average calculated using a 4.0 scale.

(12.1) “Half-time student” means a matriculated student attending a postsecondary educational institution and enrolled for six to 11 semester hours or the equivalent in any given semester or quarter.

(12.2) “HOPE award amount” means the amount of HOPE award to be made to an eligible student as follows:

(A) At an eligible public postsecondary institution, the HOPE award amount is equal to the HOPE award rate multiplied by the number of credit hours, up to a maximum of 15, in which an eligible student is enrolled per quarter or semester; provided, however, that the quarter award shall equal two-thirds of the semester award and that credit hours for remedial and developmental courses shall not be included for the HOPE scholarship; or

(B) At an eligible private postsecondary institution, the HOPE award amount is equal to HOPE tuition payment multiplied by the factor rate for full-time students and one-half of the HOPE tuition payment multiplied by the factor rate for half-time students. No awards shall be made to eligible students enrolled in five or fewer credit hours and credit hours for remedial and developmental courses shall not be included for the HOPE scholarship.

(13) “HOPE award rate” means the rate equal to the previous academic year HOPE tuition payment to the eligible public postsecondary institution multiplied by the factor rate divided by 15. Notwithstanding the foregoing, the Georgia Student Finance Commission may adjust the previous academic year HOPE tuition payment used to calculate the HOPE award rate to reflect changes in the

mission or sector of an eligible public postsecondary institution that affects the tuition charged by that institution.

(13.1) “HOPE GED voucher” means a Helping Outstanding Pupils Educationally general educational development (GED) diploma voucher for postsecondary education awarded in accordance with Code Section 20-3-519.6.

(14) “HOPE grant” means a Helping Outstanding Pupils Educationally grant for education awarded in accordance with Code Section 20-3-519.5.

(15) “HOPE scholarship” means a Helping Outstanding Pupils Educationally scholarship for education awarded in accordance with Code Section 20-3-519.2.

(16) Reserved.

(16.1) “HOPE tuition payment” means, in the case of an eligible public postsecondary institution, the amount paid for tuition only based on the standard undergraduate full-time tuition rate for 15 hours; and, in the case of an eligible private postsecondary institution, the amount paid for tuition based on the amount established by the General Assembly in an appropriations Act.

(17) “Junior student” means a student at a postsecondary institution who has attempted at least 91 quarter hours but less than 136 quarter hours or at least 61 semester hours but less than 91 semester hours.

(18) Reserved.

(19) “Matriculated status” means being recognized as a student in a defined program of study leading to a degree, diploma, or certificate at a postsecondary institution.

(19.1) “Part-time student” means a matriculated student attending a postsecondary educational institution and enrolled for less than 12 semester hours or the equivalent in any given semester or quarter and who has never been enrolled for 12 or more semester hours or the equivalent in any given semester or quarter.

(20) Reserved.

(21) “Quarter hours” includes each quarter hour attempted for credit toward a degree, certificate, or diploma, but shall not include hours attempted for remedial and developmental courses for purposes of the HOPE scholarship.

(21.1) “Remedial and developmental courses” means coursework required by the postsecondary institution or chosen by the student that does not count toward program requirements for college degrees

in the case of the HOPE scholarship, or, diplomas or certificates in the case of the HOPE grant.

(22) “Semester hours” includes each semester hour attempted for credit toward a degree, certificate, or diploma, but shall not include hours attempted for remedial and developmental courses for purposes of the HOPE scholarship.

(23) “Senior student” means a student at a postsecondary institution who has attempted at least 136 quarter hours but less than 191 quarter hours or at least 91 semester hours but less than 128 semester hours.

(24) “Sophomore student” means a student at a postsecondary institution who has attempted at least 46 quarter hours but less than 91 quarter hours or at least 31 semester hours but less than 61 semester hours.

(25) “Title IV” means Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C.A. Section 1070, et seq.

(26) “Tuition” means the charges to a student for postsecondary academic instruction without regard to other fees such as technology, activity, athletic, health, or other similar fees.

(26.1) “Zell Miller Grant Scholar” means a student that has met the applicable eligibility requirements to receive a HOPE grant in accordance with Code Section 20-3-519.5 and earned a cumulative grade point average of at least 3.5 at the end of any quarter or semester in which the student has attended courses toward a diploma or certificate.

(27) “Zell Miller Scholarship Scholar” means a student that has met the applicable eligibility requirements to receive a HOPE scholarship in accordance with Code Section 20-3-519.2 and:

(A) As an incoming freshman:

(i) Having graduated from an eligible high school with a grade point average of at least 3.7 calculated in accordance with Code Section 20-2-157 and having received a score of at least 1,200 combined critical reading score and math score on a single administration of the SAT or an ACT composite scale score of at least 26;

(ii) Having graduated from an eligible high school as a valedictorian or salutatorian; or

(iii) Having completed a home study program meeting the requirements of subsection (c) of Code Section 20-2-690, having received a score of at least 1,200 combined critical reading score

and math score on a single administration of the SAT or an ACT composite scale score of at least 26, and earning a cumulative grade point average of at least 3.3 at an eligible postsecondary institution at the end of the quarter or semester in which the student has attempted 45 quarter hours or 30 semester hours, provided that such student shall be eligible to receive a retroactive scholarship for such student's freshman year to be paid at the end of the freshman year; and

(B) As a sophomore, junior, senior, or first professional student who met the requirements of subparagraph (A) of this paragraph, having a cumulative grade point average of at least 3.3 at the checkpoints set forth in paragraph (1) of subsection (b) of Code Section 20-3-519.2. Notwithstanding the foregoing, a student that entered an eligible postsecondary institution as a freshman between July 1, 2007, and June 30, 2011, and met the requirements of subparagraph (A) of this paragraph may become a Zell Miller Scholarship Scholar as a sophomore, junior, senior, or first professional student.

A student that loses eligibility to be a Zell Miller Scholarship Scholar for any reason may regain eligibility one time if the student requalifies at one of the checkpoints set forth in paragraph (1) of subsection (b) of Code Section 20-3-519.2. (Code 1981, § 20-3-519, enacted by Ga. L. 1998, p. 626, § 2; Ga. L. 1999, p. 81, § 20; Ga. L. 2000, p. 776, § 1; Ga. L. 2000, p. 1628, § 1; Ga. L. 2001, p. 4, § 20; Ga. L. 2002, p. 1114, § 1; Ga. L. 2004, p. 922, §§ 2, 3; Ga. L. 2006, p. 1069, § 1/SB 561; Ga. L. 2008, p. 112, § 2/SB 480; Ga. L. 2008, p. 335, § 2/SB 435; Ga. L. 2008, p. 759, §§ 2, 4A/SB 492; Ga. L. 2009, p. 8, § 20/SB 46; Ga. L. 2011, p. 1, § 1/HB 326; Ga. L. 2012, p. 775, § 20/HB 942; Ga. L. 2013, p. 763, § 2/HB 115; Ga. L. 2014, p. 801, § 8/HB 697.)

The 2013 amendment, effective May 6, 2013, added the ending proviso in subparagraph (6)(A).

The 2014 amendment, effective July

1, 2014, added paragraph (26.1); and inserted "Scholarship" following "Zell Miller" throughout paragraph (27).

JUDICIAL DECISIONS

Cited in DeKalb County Sch. Dist. v. Ga. State Bd. of Educ., 294 Ga. 349, 751 S.E.2d 827 (2013).

20-3-519.2. Eligibility requirements for a HOPE scholarship.

(a) To be eligible for a HOPE scholarship, an entering freshman student seeking an associate or baccalaureate degree at an eligible

postsecondary institution shall, in addition to meeting the residency requirements set forth in subsection (a) of Code Section 20-3-519.1:

(1) Meet achievement standards by:

(A) Having graduated from an eligible high school while meeting the curriculum requirements of his or her program of study in 1993 or thereafter and meeting the requirements set out in the applicable subsection and paragraph of Code Section 20-2-157;

(B) In the case of a student who is otherwise qualified but:

(i) Did not graduate from high school or complete a home study program meeting the requirements of subsection (c) of Code Section 20-2-690, having received the general educational development (GED) diploma awarded by the Department of Technical and Adult Education, now known as the Technical College System of Georgia, after June 30, 1993, provided that such student shall only be eligible for a HOPE scholarship pursuant to subsection (c) of this Code section;

(ii) Completed a home study program meeting the requirements of subsection (c) of Code Section 20-2-690 in lieu of graduating from an eligible high school, earning a cumulative grade point average of at least 3.0 at an eligible postsecondary institution at the end of the quarter or semester in which the student has attempted 45 quarter hours or 30 semester hours, provided that such student shall be eligible to receive a retroactive HOPE scholarship for such student's freshman year to be paid at the end of the freshman year; or

(iii) Graduated from a high school which is not an eligible high school, earning a cumulative grade point average of at least 3.0 at an eligible postsecondary institution at the end of the quarter or semester in which the student has attempted 45 quarter hours or 30 semester hours, provided that such student shall be eligible to receive a retroactive HOPE scholarship for such student's freshman year to be paid at the end of the freshman year; or

(C) In the case of an otherwise qualified student who:

(i) Did not graduate from high school or complete a home study program meeting the requirements of subsection (c) of Code Section 20-2-690 but received the general educational development (GED) diploma awarded by the Department of Technical and Adult Education, now known as the Technical College System of Georgia, after June 30, 1993;

(ii) Completed a home study program meeting the requirements of subsection (c) of Code Section 20-2-690 in lieu of graduating from an eligible high school; or

(iii) Graduated from a high school which is not an eligible high school,

earning a score in the eightieth percentile or higher nationally on a standardized college admission test, such as the SAT or ACT; and

(2) Meet enrollment standards by being admitted, enrolled, and classified as an undergraduate student in a matriculated status.

(b) To be eligible for a HOPE scholarship, a sophomore, junior, senior, or first professional student seeking an associate, baccalaureate, or first professional degree at an eligible postsecondary institution shall, in addition to meeting the residency requirements set forth in subsection (a) of Code Section 20-3-519.1:

(1) Meet achievement standards by meeting the following criteria:

(A) Earning a cumulative grade point average of at least 3.0 at a postsecondary institution:

(i) At the end of the quarter or semester in which the student has attempted 45, 90, or 135 quarter hours or 30, 60, or 90 semester hours if such student is a full-time student; or

(ii) At the end of three consecutive quarters or semesters if such student is a part-time student and has maintained part-time student status for three consecutive quarters or semesters; and

(B) Maintaining satisfactory academic progress in a course of study in accordance with the standards and practices used for federal Title IV programs by the postsecondary institution in which the student is enrolled; and

(2) Meet enrollment standards by being admitted, enrolled, and classified as an undergraduate or first professional student in a matriculated status.

(c)(1)(A) A full-time student who fails to maintain a cumulative grade point average of at least 3.0 at the end of the quarter or semester in which the student has attempted 45, 90, or 135 quarter hours or 30, 60, or 90 semester hours may attend the next 45 quarter or 30 semester hours without a HOPE scholarship.

(B) An otherwise eligible student who attains or regains a cumulative grade point average of at least 3.0 at the end of a quarter or semester in which the student has attempted 45, 90, or 135 quarter hours or 30, 60, or 90 semester hours may qualify or requalify for a HOPE scholarship; provided, however, that a student who receives a HOPE scholarship and loses eligibility pursuant to this subsection is only eligible to regain or requalify for the HOPE scholarship one time.

(2) In addition to other requirements, and regardless of quarter hours or semester hours of coursework attempted, a student who fails to possess a cumulative grade point average of at least 3.0 at the end of each spring quarter or semester or at the end of three consecutive quarters or semesters for a part-time student pursuant to paragraph (1) of subsection (b) of this Code section shall be ineligible for a HOPE scholarship until such time as the student regains or attains a cumulative grade point average of at least 3.0 at one of the 45, 90, or 135 quarter hour grade point average checkpoints or at one of the 30, 60, or 90 semester hour grade point average checkpoints, at which time the student will regain or attain eligibility if other terms and conditions in this Code section are also satisfied; provided, however, that a student who receives a HOPE scholarship and loses eligibility pursuant to this subsection is only eligible to regain or requalify for the HOPE scholarship one time.

(d) A student may receive the HOPE scholarship until the first of these events:

(1) The student has earned a baccalaureate or first professional degree;

(2) The student has attempted at any postsecondary institution a total of 190 quarter hours or 127 semester hours; or

(3) Beginning with those students receiving a HOPE scholarship for the first time on or after July 1, 2011, seven years from a student's graduation from high school or the equivalent thereof as determined by the Georgia Student Finance Commission in its rules and regulations; provided, however, that for a student who serves in the military during such seven-year period, any such military service served as active duty shall not count against the seven-year period. A student that is ineligible to receive a HOPE scholarship pursuant to this paragraph but who received the HOPE scholarship during the 2010-2011 academic year shall continue to be eligible for the HOPE scholarship until June 30, 2015, as long as such student meets all other eligibility requirements, including, but not limited to, paragraphs (1) and (2) of this subsection.

(e) Subject to the amounts appropriated by the General Assembly and provisions relating to the Lottery for Education Account in Code Section 50-27-13, a HOPE scholarship awarded under this Code section shall be equal to the HOPE award amount.

(f) For each semester of eligibility, Zell Miller Scholarship Scholars shall be awarded an amount in addition to the HOPE award amount as follows:

(1) If attending an eligible public institution, an amount equal to the difference between the HOPE award amount and the then

current academic year standard undergraduate tuition amount at the institution to be paid; and

(2) If attending an eligible private institution, an amount equal to the difference between the HOPE award amount and the HOPE tuition payment. (Code 1981, § 20-3-519.2, enacted by Ga. L. 1998, p. 626, § 2; Ga. L. 2000, p. 618, § 77; Ga. L. 2001, p. 4, § 20; Ga. L. 2004, p. 922, § 4; Ga. L. 2006, p. 338, §§ 1, 2/SB 506; Ga. L. 2006, p. 1069, § 2/SB 561; Ga. L. 2008, p. 335, § 2/SB 435; Ga. L. 2008, p. 590, § 1/HB 152; Ga. L. 2008, p. 759, § 3/SB 492; Ga. L. 2009, p. 8, § 20/SB 46; Ga. L. 2009, p. 858, § 1/HB 484; Ga. L. 2011, p. 1, § 3/HB 326; Ga. L. 2012, p. 775, § 20/HB 942; Ga. L. 2014, p. 491, § 1/HB 810; Ga. L. 2014, p. 801, § 9/HB 697.)

The 2014 amendments. — The first 2014 amendment, effective July 1, 2014, substituted “eightieth” for “eighty-fifth” in the ending paragraph of subparagraph

(a)(1)(C). The second 2014 amendment, effective July 1, 2014, inserted “Scholarship” in the introductory paragraph of subsection (f).

JUDICIAL DECISIONS

Cited in DeKalb County Sch. Dist. v. Ga. State Bd. of Educ., 294 Ga. 349, 751 S.E.2d 827 (2013).

20-3-519.5. Eligibility requirements for a HOPE grant.

(a) To be eligible for a HOPE grant, a student seeking a diploma or certificate at a branch of the Technical College System of Georgia or a unit of the University System of Georgia shall, in addition to meeting the residency requirements set forth in subsection (a) of Code Section 20-3-519.1:

(1) Meet achievement standards by earning a cumulative grade point average of at least 2.0 at the end of the quarter or semester in which the student has attended 30 or 60 semester hours or 45 or 90 quarter hours of courses towards a diploma or certificate for which the student received HOPE funds pursuant to this part. The grade point average shall be calculated using such 30 semester or 45 quarter hours taken pursuant to this subsection. An otherwise eligible student who attains or regains a cumulative grade point average of at least 2.0 at the end of a quarter or semester in which the student has attempted 30 or 60 semester hours or 45 or 90 quarter hours may qualify or requalify for a HOPE grant; provided, however, that a student who receives a HOPE grant and loses eligibility pursuant to this paragraph is only eligible to regain or requalify for the HOPE grant one time; and

(2) Meet enrollment standards by being admitted, enrolled, and classified as an undergraduate student in a matriculated status in a

program of study leading to a certificate or diploma and maintaining satisfactory academic progress in accordance with the standards and practices used for federal Title IV programs by the institution at which the student is enrolled.

(b) There is no minimum number of hours of enrollment required for eligibility for a HOPE grant under this Code section.

(c) Subject to the provisions of subsection (e) of this Code section, an eligible student may receive HOPE grants for all course work required by the institution for programs of study leading to a certificate or diploma, including remedial and developmental courses.

(d) Subject to the amounts appropriated by the General Assembly and provisions relating to the Lottery for Education Account in Code Section 50-27-13, a HOPE grant awarded under this Code section shall equal the HOPE award amount.

(d.1) For each semester or quarter following a semester or quarter that it is determined that a student is a Zell Miller Grant Scholar, a student shall be awarded an amount in addition to the HOPE award amount equal to the difference between the HOPE award amount and the then current academic year standard undergraduate tuition amount at the institution to be paid or the exceptional tuition rate amount in effect on January 1, 2014, for programs with exceptional tuition rates in effect on January 1, 2014. Eligibility to be a Zell Miller Grant Scholar shall be determined on a semester or quarter basis and paid for the next semester or quarter in which a student is enrolled. Notwithstanding the foregoing, a Zell Miller Grant Scholar shall also receive one semester or quarter of retroactive payment if the student was not eligible to be a Zell Miller Grant Scholar because he or she had no cumulative grade point average.

(e) No student that has a baccalaureate degree, its equivalent or higher, from any postsecondary institution shall be eligible to receive a HOPE grant. No student may receive HOPE grants for more than 95 quarter hours or 63 semester hours of attempted coursework. No student may receive more than a cumulative total of 190 quarter hours or 127 semester hours of combined HOPE scholarships and grants. For purposes of this subsection, attempted hours shall not include hours for courses taken and paid for by a HOPE grant while a student is participating in dual credit enrollment with both an eligible high school and a branch of the Technical College System of Georgia or a unit of the University System of Georgia. The Technical College System of Georgia or the University System of Georgia, as applicable, shall verify that the student is enrolled in an eligible high school and shall notify the Georgia Student Finance Commission of the student's participation in dual credit enrollment. (Code 1981, § 20-3-519.5, enacted by Ga. L.

1998, p. 626, § 2; Ga. L. 2000, p. 618, § 78; Ga. L. 2004, p. 922, § 7; Ga. L. 2008, p. 335, § 2/SB 435; Ga. L. 2008, p. 759, § 4B/SB 492; Ga. L. 2009, p. 858, § 3/HB 484; Ga. L. 2011, p. 1, § 4/HB 326; Ga. L. 2013, p. 191, § 1/HB 372; Ga. L. 2014, p. 801, § 10/HB 697.)

<p>The 2013 amendment, effective July 1, 2013, substituted “2.0” for “3.0” twice in paragraph (a)(1).</p>	<p>The 2014 amendment, effective July 1, 2014, added subsection (d.1).</p>
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20-3-519.6. HOPE GED vouchers.

Subject to the amounts appropriated by the General Assembly and provisions relating to the shortfall reserve in Code Section 50-27-13, a HOPE GED voucher in the amount of \$500.00 shall be available once to each student receiving a general educational development (GED) diploma awarded by the Department of Technical and Adult Education, now known as the Technical College System of Georgia, after June 30, 1993. Such voucher shall be issued to such student upon enrollment in any eligible postsecondary institution in Georgia within 24 months from the date the general educational development (GED) diploma was awarded to the student and may only be used to cover postsecondary costs of attendance at such institution; provided, however, that for an individual who becomes eligible for such voucher while he or she is incarcerated in a penal institution in this state, such voucher may be used by such individual within 24 months from the date of release from the penal institution. (Code 1981, § 20-3-519.6, enacted by Ga. L. 1998, p. 626, § 2; Ga. L. 2001, p. 4, § 20; Ga. L. 2008, p. 335, § 2/SB 435; Ga. L. 2009, p. 8, § 20/SB 46; Ga. L. 2010, p. 398, § 1/SB 341; Ga. L. 2011, p. 1, § 5/HB 326; Ga. L. 2013, p. 222, § 12/HB 349.)

<p>The 2013 amendment, effective July 1, 2013, added the proviso at the end of this Code section. See editor’s note for applicability.</p> <p>Editor’s notes. — Ga. L. 2013, p. 222, § 21/HB 349, not codified by the General Assembly, provides: “This Act shall become effective on July 1, 2013, and shall apply to offenses which occur on or after</p>	<p>that date. Any offense occurring before July 1, 2013, shall be governed by the statute in effect at the time of such offense.”</p> <p>Law reviews. — For article, “Appeal and Error: Appeal or Certiorari by State in Criminal Cases,” see 30 Ga. St. U.L. Rev. 17 (2013).</p>
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ARTICLE 8

EUGENE TALMADGE MEMORIAL HOSPITAL

20-3-520. Construction and operation authorized; separate appropriations.

JUDICIAL DECISIONS

Cited in *Cook v. Forrester*, 323 Ga. App. 631, 746 S.E.2d 624 (2013).

ARTICLE 9

GEORGIA MILITARY COLLEGE

PART 2

FUNDING; DONATIONS; PROPERTY; SCHOLARSHIPS

20-3-560. Legislative intent.

It is the intention of the General Assembly that the Georgia Military College be a state-wide institution dedicated to providing a high-quality military education to the youth of this state, but not beyond the level of the second year of postsecondary study except for Bachelor of Applied Science degree programs which assist graduates of institutions under the Technical College System of Georgia in the attainment of a four-year bachelor’s degree; provided, however, that no branch of the Georgia Military College shall offer any Bachelor of Applied Science degree program that is currently being offered by an institution of the Board of Regents of the University System of Georgia which is located in the same county as such branch; provided, further, that the level of such educational programs shall be subject to the availability of funds appropriated by the General Assembly. The student enrollment of the college shall reflect as closely as possible the racial and demographic makeup of the state. (Code 1981, § 20-3-560, enacted by Ga. L. 1990, p. 579, § 1; Ga. L. 2014, p. 474, § 1/HB 763.)

The 2014 amendment, effective July 1, 2014, in the first sentence of this Code section, added the language beginning with “except for Bachelor of Applied Science” and ending with “same county as such branch”, and substituted “provided, further” for “provided, however” near the end.

ARTICLE 12

POSTSECONDARY EDUCATION GRANTS FOR FOSTER
CHILDREN AND ADOPTED CHILDREN**20-3-660. Program of grants created; terms and conditions; applications; eligibility; duties of the Division of Family and Children Services; expenses and fees covered; report by the Education Coordinating Council.**

From funds appropriated by the General Assembly for such purpose, there is created a program of grants for the payment of postsecondary tuition, ancillary fees, and living expenses for Georgia foster children and adopted children. Such grants shall be subject to the following terms and conditions:

(1) Tuition, ancillary student fees, and the cost-of-living expenses for any undergraduate program of any Georgia public postsecondary institution, including all four-year and two-year colleges and universities and institutions of the Georgia Community and Technical College System, shall be paid for a Georgia foster or adopted child who is a full-time or part-time student if the student meets all entrance requirements and maintains academic eligibility while enrolled at the postsecondary institution and if:

(A) The student's family receives state funded adoption assistance under Code Section 49-5-8;

(B) The student is currently committed to the Division of Family and Children Services within the Department of Human Services under Code Section 15-11-212 and placed in a family foster home or is placed in accordance with subparagraph (a)(2)(C) of Code Section 15-11-212;

(C) The student is in an independent living program and the placement is funded by the Division of Family and Children Services; or

(D) The student who is an adopted child was in the permanent legal custody of and placed for adoption by the Division of Family and Children Services following the child's fourteenth birthday. A student who meets the eligibility criteria of this subparagraph and lives outside this state at the time of application to a Georgia postsecondary institution may apply for the grant as though he or she were still a resident of this state;

(2) The student shall:

(A) Obtain the application for the grant through the Division of Family and Children Services; and

(B) Complete the Free Application for Federal Student Aid to determine the level of need and eligibility for state and federal financial aid programs. If the student's financial need for total cost of attendance, as defined in 20 U.S.C. Section 1087ll, exceeds the available funding from all sources, except loans and the work-study program under 42 U.S.C. Sections 2751-2756b, the foster care tuition grant shall be used to cover the excess assessed need for cost of attendance at the postsecondary institution;

(3) The student shall be eligible and remain eligible for the grant so long as:

(A) The student applies for entrance to the institution within three years of receipt of his or her high school diploma or general educational development (GED) diploma;

(B) The student maintains satisfactory academic progress as defined by the institution attended; and

(C) The student has not reached the age of 26;

(4) The Division of Family and Children Services shall:

(A) Advertise the availability of the program and ensure that the children and young adults leaving foster care, foster parents, and family services counselors are informed of the availability of the program and the application procedures;

(B) Provide grant applications to all students leaving foster care; and

(C) Report the number of students participating in the tuition grant program on October 1 of each year to the Office of Planning and Budget and the Office of the Child Advocate;

(5) Cost-of-living expenses and necessary fees shall be determined for this program by the institution in which the student enrolls. Cost-of-living may include but is not limited to room, board, books, fees, supplies, transportation fees, and a basic health care policy endorsed by the institution in which the student is enrolled;

(6) The Education Coordinating Council shall report nonidentifying data on graduation rates of students participating in the tuition grant program by November 30 each year to the Office of Planning and Budget and the Office of the Child Advocate; and

(7) Nothing in this Code section shall be construed to:

(A) Guarantee acceptance of or entrance into any postsecondary institution for a foster or adopted child;

(B) Limit the participation of a foster or adopted student in any other program of financial assistance for postsecondary education;

(C) Require any postsecondary institution to waive costs or fees relating to tuition, fees, room, and board;

(D) Restrict any postsecondary institution or the Division of Family and Children Services from accessing other sources of financial assistance, except loans, that may be available to a foster or adopted student; or

(E) Prevent the student from maintaining the grant if transferring to another public postsecondary institution in this state, provided that the student meets all of the requirements of the transferring and receiving institutions. (Code 1981, § 20-3-660, enacted by Ga. L. 2005, p. 479, § 1/HB 272; Ga. L. 2009, p. 8, § 20/SB 46; Ga. L. 2009, p. 453, § 2-2/HB 228; Ga. L. 2013, p. 294, § 4-40/HB 242.)

The 2013 amendment, effective January 1, 2014, in subparagraph (1)(B), substituted “Code Section 15-11-212” for “Code Section 15-11-55”, and substituted “subparagraph (a)(2)(C) of Code Section 15-11-212” for “Code Section 15-11-2”. See editor’s note for applicability.

Editor’s notes. — Ga. L. 2013, p. 294, § 5-1/HB 242, not codified by the General Assembly, provides that: “This Act shall become effective on January 1, 2014, and shall apply to all offenses which occur and juvenile proceedings commenced on and

after such date. Any offense occurring before January 1, 2014, shall be governed by the statute in effect at the time of such offense and shall be considered a prior adjudication for the purpose of imposing a disposition that provides for a different penalty for subsequent adjudications, of whatever class, pursuant to this Act. The enactment of this Act shall not affect any prosecutions for acts occurring before January 1, 2014, and shall not act as an abatement of any such prosecutions.”

CHAPTER 4

VOCATIONAL, TECHNICAL, AND ADULT EDUCATION

Article 2

Technical and Adult Education

2016) Nonlapsing revenue of institutions under the Technical College System of Georgia.

Sec.
20-4-21.1. (Repealed effective June 30,

ARTICLE 2

TECHNICAL AND ADULT EDUCATION

20-4-21.1. (Repealed effective June 30, 2016) Nonlapsing revenue of institutions under the Technical College System of Georgia.

Revenue collected by any or all institutions under the Technical College System of Georgia from tuition, departmental sales or services, continuing education fees, technology fees, or indirect cost recoveries shall not lapse. The amount of revenue from tuition that shall not lapse under this Code section shall not exceed 15 percent of the tuition collected. This Code section shall stand repealed on June 30, 2016. (Code 1981, § 20-4-21.1, enacted by Ga. L. 2006, p. 686, § 3/HB 1294; Ga. L. 2008, p. 884, § 2-2/HB 1183; Ga. L. 2010, p. 576, § 2-2/HB 1128; Ga. L. 2013, p. 747, § 2-2/HB 45.)

The 2013 amendment, effective May 6, 2013, substituted “2016” for “2013” in the last sentence.

ARTICLE 3

INDUSTRY SERVICES TRAINING PROGRAM

20-4-40. Program for quick start training established.

JUDICIAL DECISIONS

Cited in Deal v. Coleman, 294 Ga. 170, 751 S.E.2d 337 (2013).

CHAPTER 7

LEGISLATIVE EDUCATIONAL RESEARCH COUNCIL

Sec.
20-7-1 through 20-7-5 [Repealed].

20-7-1 through 20-7-5.

Reserved. Repealed by Ga. L. 1986, p. 827, § 1, effective April 3, 1986.

Editor’s notes. — Ga. L. 2013, p. 141, § 20/HB 79, reserved the designation of this chapter, effective April 24, 2013.

CHAPTER 14

EDUCATION COORDINATING COUNCIL

Article 2

Sec.

Education Accountability
Assessment Programs

Public Education Innovation
Fund Foundation; reporting.

PART 9

PART 2

CAREER AND TECHNICAL EDUCATION ADVISORY
COMMISSION

OFFICE OF STUDENT ACHIEVEMENT

20-14-91. Career and Technical Educa-
tion Advisory Commission
created; membership; re-
quirements; meetings; reim-
bursement.

Sec.

20-14-26.1. Authority to incorporate non-
profit corporation as public
foundation; requirements;

ARTICLE 2

EDUCATION ACCOUNTABILITY ASSESSMENT PROGRAMS

PART 2

OFFICE OF STUDENT ACHIEVEMENT

**20-14-26.1. Authority to incorporate nonprofit corporation as
public foundation; requirements; Public Education
Innovation Fund Foundation; reporting.**

(a) The office shall have the power and authority to incorporate a nonprofit corporation that could qualify as a public foundation under Section 501(c)(3) of the Internal Revenue Code to aid the office in carrying out any of its powers and in accomplishing any of its purposes. Any nonprofit corporation created pursuant to this power shall be created pursuant to Chapter 3 of Title 14, the “Georgia Nonprofit Corporation Code,” and the Secretary of State shall be authorized to accept such filing.

(b) Any nonprofit corporation created pursuant to this Code section shall be subject to the following provisions:

(1) In accordance with the Constitution of Georgia, no governmental functions or regulatory powers shall be conducted by any such nonprofit corporation;

(2) Upon dissolution of any such nonprofit corporation incorporated by the office, any assets shall revert to the office or to any successor to the office or, failing such succession, to the State of Georgia;

(3) As used in this paragraph, the term “direct employee costs” means salary, benefits, and travel expenses. To avoid the appearance of undue influence on regulatory functions by donors, no donations to any such nonprofit corporation from private sources shall be used for direct employee costs of the office;

(4) Any such nonprofit corporation shall be subject to all laws relating to open meetings and the inspection of public records;

(5) The office shall not be liable for the action or omission to act of any such nonprofit corporation;

(6) No debts, bonds, notes, or other obligations incurred by any such nonprofit corporation shall constitute an indebtedness or obligation of the State of Georgia nor shall any act of any such nonprofit corporation constitute or result in the creation of an indebtedness of the state. No holder or holders of any such bonds, notes, or other obligations shall ever have the right to compel any exercise of the taxing power of the state nor to enforce the payment thereof against the state; and

(7) Any nonprofit corporation created pursuant to this Code section shall not acquire or hold a fee simple interest in real property by any method, including but not limited to gift, purchase, condemnation, devise, court order, and exchange.

(b.1) Pursuant to this Code section, the office may establish a nonprofit corporation to be designated as the Public Education Innovation Fund Foundation to promote Public-Private Partnerships between businesses, nonprofit organizations, institutions of higher education, local school systems, and public schools, for the purpose of improving student achievement. Funds received by the foundation may be awarded through a competitive grant process administered by the office. The General Assembly may appropriate funds for purposes of this foundation beginning in Fiscal Year 2015.

(c) Any nonprofit corporation created pursuant to this Code section shall make public and provide an annual report showing the identity of all donors and the amount each person or entity donated as well as all expenditures or other disposal of money or property donated. Such report shall be provided to the Governor, the Lieutenant Governor, the Speaker of the House of Representatives, and the chairpersons of the House Committee on Education and the Senate Education and Youth Committee. Any such nonprofit corporation shall also provide such persons with a copy of all corporate filings with the federal Internal Revenue Service. (Code 1981, § 20-14-26.1, enacted by Ga. L. 2013, p. 1061, § 32/HB 283; Ga. L. 2014, p. 866, § 20/SB 340.)

Effective date. — This Code section became effective July 1, 2013.

The 2014 amendment, effective April 29, 2014, part of an Act to revise, modern-

ize, and correct the Code, substituted “office” for “department” in the first sentence of subsection (a).

PART 9

CAREER AND TECHNICAL EDUCATION ADVISORY COMMISSION

Effective date. — This part became effective July 1, 2013.

20-14-91. Career and Technical Education Advisory Commission created; membership; requirements; meetings; reimbursement.

(a) There is created the Career and Technical Education Advisory Commission.

(b)(1) The commission shall consist of four members of the House of Representatives to be appointed by the Speaker of the House, one of whom shall be from the House Committee on Economic Development and Tourism, one of whom shall be from the House Committee on Agriculture and Consumer Affairs, one of whom shall be from the House Committee on Education, and one of whom shall be from the House Committee on Higher Education; four members of the Senate to be appointed by the President of the Senate, one of whom shall be from the Senate Economic Development Committee, one of whom shall be from the Senate Agriculture and Consumer Affairs Committee, one of whom shall be from the Senate Education and Youth Committee, and one of whom shall be from the Senate Higher Education Committee; three members who are not members of the General Assembly to be appointed by the Governor; and three members who are not members of the General Assembly to be appointed by the State School Superintendent.

(2) Vacancies in the commission shall be filled in the same manner as the original appointments.

(3)(A) Legislative members of the commission shall serve two-year terms concurrent with their terms as members of the General Assembly.

(B) Nonlegislative members of the commission shall serve for two-year terms concurrent with those terms of legislative members of the commission.

(c) The Speaker of the House shall designate one of the commission members from the House of Representatives as a co-chairperson of the commission, and the President of the Senate shall designate one of the

commission members from the Senate as a co-chairperson of the commission. Each co-chairperson shall serve as such concurrent with his or her term as a member of the commission.

(d)(1) The head of the career and technical education program of the Department of Education shall report annually to the commission regarding the conditions, needs, issues, and problems of the program.

(2) The commission shall periodically review the conditions, needs, issues, and problems related to the career and technical education program, issue annually a report on the same to the General Assembly, and recommend any action or legislation which the commission deems necessary or appropriate.

(e)(1) The commission may conduct such meetings at such places and at such times as it may deem necessary or convenient to enable it to exercise fully and effectively its powers, perform its duties, and accomplish the objectives and purposes of this Code section. The commission shall meet upon the call of either co-chairperson. The commission shall meet at least once but not more than four times annually.

(2) The legislative members of the commission shall receive the allowances provided for in Code Section 28-1-8. Any citizen members shall receive a daily expense allowance in the amount specified in subsection (b) of Code Section 45-7-21 as well as the mileage or transportation allowance authorized for state employees. Any members of the commission who are state officials, other than legislative members, and state employees shall receive no compensation for their services on the commission, but they shall be reimbursed for expenses incurred by them in the performance of their duties as members of the commission in the same manner as they are reimbursed for expenses in their capacities as state officials or employees. The funds necessary for the reimbursement of the expenses of state officials, other than legislative members, and state employees shall come from funds appropriated to or otherwise available to the Department of Education. All other funds necessary to carry out the provisions of this Code section shall come from funds appropriated to the House of Representatives and the Senate. The expenses and allowances authorized by this paragraph shall not be received by members of the commission for more than four days annually. (Code 1981, § 20-14-91, enacted by Ga. L. 2013, p. 675, § 1/SB 100.)

Editor's notes. — Former Code Section 20-14-91, relating to membership and vacancies, was repealed by Ga. L. 2007, p. 47, § 20/SB 103, effective December 31, 2012, and was based on Code 1981, § 20-14-91, enacted by Ga. L. 2006, p. 1008, § 1/HB 1228; Ga. L. 2007, p. 47, § 20/SB 103.

CHAPTER 15

GEORGIA MEDICAL CENTER AUTHORITY

Sec.

20-15-1 through 20-15-16 [Repealed].

20-15-1 through 20-15-16.

Reserved. Repealed by Ga. L. 2014, p. 175, § 1/HB 513, effective April 15, 2014.

Editor's notes. — This chapter consisted of Code Sections 20-15-1 through 20-15-5, 20-15-5.1 through 20-15-5.7, 20-15-6 through 20-15-16, relating to the Georgia Medical Center Authority, and was based on Code 1981, §§ 20-15-1 through 20-15-16, enacted by Ga. L. 2000, p. 399, § 1; Ga. L. 2001, p. 4, § 20; Ga. L. 2004, p. 486, § 1; Ga. L. 2005, p. 694, § 29/HB 293; Ga. L. 2005, p. 1134, § 6/HB 298; Code 1981, §§ 20-15-5.1 through 20-15-5.7, enacted by Ga. L. 2006, p. 1060, § 4/HB 1083; Ga. L. 2006, p. 1060, §§ 5-7/HB 1083; Ga. L. 2007, p. 47, § 20/SB 103; Ga. L. 2009, p. 300, §§ 1, 2/HB 93.

Ga. L. 2014, p. 175, § 2/HB 513, not codified by the General Assembly, pro-

vides that as of April 15, 2014, the Georgia Medical Center Authority is abolished and shall cease to exist.

Ga. L. 2014, p. 175, § 3/HB 513, not codified by the General Assembly, provides that: "(a) Any funds held by the Georgia Medical Center Authority as of the effective date of this Act shall be paid to the state treasury and become a part of the general funds of the state.

"(b) On the effective date of this Act, any outstanding contracts, licenses, and obligations of the Georgia Medical Center Authority shall be transferred to the Board of Regents of the University System of Georgia until the same are completed or extinguished." This Act became effective April 15, 2014.

